The Solicitors' Journal
and Weekly Reporter.

(*ESTABLISHED IN* 1857.)

LONDON, AUGUST 18, 1917.

ANNUAL SUBSCRIPTION, WHICH MUST BE PAID IN ADVANCE: £1 6s.; by Post, £1 8s.; Foreign, £1 10s. 4d.
HALF-YEARLY AND QUARTERLY SUBSCRIPTIONS IN PROPORTION.

*** The Editor cannot undertake to return rejected contributions, and copies should be kept of all articles sent by writers who are not on the regular staff of the JOURNAL.
All letters intended for publication must be authenticated by the name of the writer.

GENERAL HEADINGS.

Cases Reported this Week.

Current Topics.

State Compensation for Enemy Damage.

WE GAVE an account recently (*ante*, p. 636) of the reception by the Prime Minister, on 13th July, of a deputation from the Committee on War Damage and of its result, namely, the acceptance by the Government of the principle that enemy damage should be paid for by the State. The Committee have now issued a verbatim report of the proceedings on that occasion (P. S. King & Son, 6d.), together with other information as to the movement for equalizing losses by throwing them on the State. We noted last week (*ante*, p. 685) that a committee is being appointed to work out a scheme for giving effect to this principle, and that the Lord Mayor, Lord PARMOOR, and Mr. MARK H. JUDGE will represent the Mansion House Committee.

Housing after the War.

ONE OF the most important tasks to be undertaken after the war will be the question of re-housing. During the war, as is well known, building has been at a standstill, and there are not only arrears to be made up, but schemes of improvements to be proceeded with. We referred recently to the report of Judge PARRY and his fellow Commissioners on Industrial Unrest in Lancashire (*ante*, p. 660). In the report for Wales by the Commission of which Mr. LLEUFER THOMAS was chairman, a document of remarkable fulness and interest, we read: "The towns and villages are ugly and overcrowded; houses are scarce, and rents are increasing, and the surroundings are insanitary and depressing." This, of course, refers to the mining districts of South Wales and is spoken of as a cause of unrest; but there is need for more and better housing in all directions, and we are glad to see that a National Conference on Housing after the War is being arranged to be held in London. We have received a copy of the report by the Organizing Committee, which is to be laid before the Conference (Mr. NORMAN MCKILLEN, A.S.A.A., secretary, York Chambers, 27, Brazennose-street, Manchester, 1s.), and which contains proposals for solving the question of the housing of the people on the conclusion of the war. The object of the report is to point out the proper spheres of public and private enterprise in this matter, and we gather that it inclines strongly to private enterprise, though, under the special circumstances and in consideration of the great amount of work to be done, it is suggested that Government assistance might properly be asked for in aid of private undertakings.

The New Food and Defence Orders.

We print elsewhere a number of War Orders and Regulations. The Food Control Orders of this and recent weeks shew that Lord Rhondda is rapidly getting the whole food supply under his control. The difficulty of the task which his predecessor and himself have had to face is well known, and no one doubts the energy with which he and his department are attempting to grapple with it. There have been many big jobs done in the course of the war. The Flanders front and the arsenals and munition factories in this country bear eloquent testimony. We might say the same as to the naval establishments and shipyards if we were permitted to know anything about them save from an occasional authorized "Visit to the Fleet." But in its extent and complexity, and in the uncertainty of many of its factors, we are inclined to think food control is the biggest. The new Defence of the Realm Regulations are partly concerned with the same problem, and facilitate the obtaining of information as to supplies; and the powers of the Board of Trade, which already apply to encouraging and maintaining the supply of articles of commerce other than food, are extended to regulating such supply. Coroners will welcome the regulation which enables inquests on the bodies of enemies killed here to be dispensed with. And a new regulation 41AA is made for the purpose, apparently, of keeping better oversight on munitions workmen who are on that ground exempted from being called up for military service.

A League of Peace.

We finished last week the summary of State documents relating to War Aims which have appeared at the close of the last and during the present year. As we are only concerned with what may bear on international or constitutional law, we need not extend our summary to the important statement of Labour Peace Aims which has been drafted for submission to the Inter-Allied Labour Conference, and it would be beyond our scope to notice the Pope's Peace Note, at any rate, while it stands by itself. It is, however, interesting to observe that both documents give prominence to the idea of a League of Nations on which we wrote last week. "Whoever triumphs," says the Labour statement, "the world will have lost, unless some effective method of preventing war can be found," and it continues:—

> The Conference demands, in addition, that it should be an essential condition of the Treaty of Peace itself that there should be forthwith established a super-national authority, or League of Nations, which should not only be adhered to by all the present belligerents, but which every other independent sovereign State in the world should be pressed to join; the immediate establishment by such League of Nations not only of an International High Court for the settlement of all disputes between States that are of justiciable nature, but also of appropriate machinery for prompt and effective mediation between States in issues that are not justiciable; the formation of an International Legislature in which the representatives of every civilised State would have their allotted share; the gradual development, as far as may prove to be possible, of International legislation agreed to by and definitely binding upon the several States; and for a solemn agreement and pledge by all States that every issue between any two or more of them shall be submitted for settlement as aforesaid, and that they will all make common cause against any State which fails to adhere to this agreement.

To the same effect is the Pope's Note:—

> First, the fundamental point should be that the moral force of right should replace the material force of arms; hence a just agreement between all for the simultaneous and reciprocal diminution of armaments, according to rules and guarantees to be established, to the extent necessary and sufficient for the maintenance of public order in each State; then, in the place of armies, the establishment of arbitration with its exalted pacifying function, on lines to be concerted and with sanctions to be settled against any State that should refuse either to submit international questions to arbitration or to accept its awards.

Following the numerous similar declarations from many influential quarters, these demands make it clear that international arbitration is likely to be pursued to some practical result, and to be an important feature in the growing movement towards peace.

The Law Officers on Intercourse with the Enemy.

We have frequently referred during the war to the question of intercourse between private subjects of belligerent states, and we have advanced the view that, properly understood, the law only forbids commercial intercourse and such intercourse as may be prejudicial to military or naval operations. It now appears that the Government have taken the opinion of the Law Officers on the question, and that they have advised that all intercourse is forbidden save such as is undertaken by the licence of the Crown. Of course, everyone who has followed the subject knows that our view has not prevailed in the courts, and more than two years ago (59 Solicitors' Journal, p. 468) we wrote, in commenting on *Robson* v. *Premier Oil, &c., Co.* (*ibid*, 475; 1915, 2 Ch. 124 C. A.), that "for the purpose of the present war it may be regarded as settled that the prohibition of intercourse between the subjects of hostile states is not restricted to commercial intercourse, but is absolute." This result of the recent decisions is so well known that the opinion of the Law Officers was hardly required to support it, and last week, in referring to the Stockholm Conference, we pointed out that, if British delegates went to meet German delegates, this would have to be under the express licence of the Crown. Whether that licence should be given is of course a matter quite independent of the rule against intercourse now established by judicial decision. No one doubts that the licence of the Crown removes all illegality, and the real question for the Government has all the time been, not whether unlicensed intercourse was permitted, but whether the Crown should on this particular occasion license it. That is a question which to all appearance will grow in importance, and the Government must be very strongly convinced of their own ability to bring the war to a speedy and satisactory conclusion if they reject any non-official means which may possibly assist to that end.

Enemy Intercourse and the Common Law.

But the fact that the opinion of the Law Officers has been cited in the House of Commons as really relevant to the question of the Stockholm Conference naturally raises again, notwithstanding recent judicial decisions, the question what is really the foundation of the rule against intercourse with the enemy. It is, we believe, said to be a rule of the common law. Popularly this means that it is a rule of the ancient common law, but whether it can be found there we doubt. Properly the common law is the law as determined from time to time by the judges, and that is capable, within limits, of variation. Lord Mansfield knew so little of the rule that he would have permitted commercial intercourse, at any rate as regards insurance; but this was regarded as a heresy, and he was overruled. Lord Stowell had frequently to consider the question, and in *The Cosmopolitan* (4 Chr. Rob., p. 11) he spoke as though all intercourse was forbidden; but there and in other cases he was only concerned with commercial intercourse, and in any case his Prize decisions do not seem to form any part of the common law. The same remark applies *a fortiori* to the Black Book of the Admiralty, on which Evans, P., relied in *The Panariellos* (59 Solicitors' Journal, 399). This may be interesting in the Admiralty Court, but it is of no authority elsewhere. In *Esposito* v. *Bowden* (7 E. & B., p. 779), Willes, J., who was certainly a great authority on the common law, only went so far as to say that one of the consequences of war was the absolute interdiction of all commercial intercourse between the subjects of the hostile countries except by the permission of their respective Sovereigns. As far as we are aware, the extension of the rule to non-commercial and non-military intercourse is of American origin, and is due to the extravagantly expressed judgment of Johnson, J., in *The Rapid* (12 U. S. Rep. 155; see 59 Solicitors' Journal, page 369), though it was afterwards adopted by Story, J., in *The Julia* (*ibid*, p. 194). With all respect to judgments of the United States Supreme Court—though the course of decision has not been uniform even in that country—they cannot be regarded as making our common law, and at the beginning of this war it

was open to our courts either to intensify the state of hostility, render more strict the law, and extend it to forbid all intercourse; or to leave it as a bar only to commercial, and, clearly, to military intercourse. The latter course has been adopted, but, as we have pointed out, it is of no practical importance in a case where the Crown can be properly expected to grant a licence.

The Fountain of Honour.

THE KING, as the text-books on constitutional law tell us, is at once the Fountain of Honour, the Fountain of Justice, and the Fountain of Mercy. But, as a constitutional monarch, he acts in each capacity through his properly chosen advisers or representatives. As regards justice, his power of initiative has long been surrendered to the judges. JAMES I. indeed, of happy and blessed memory, attempted to administer justice in person, but COKE, C.J., would have none of it. As regards mercy, although the prerogative of mercy is still exercised by His Majesty on the advice of the Home Secretary, yet the Court of Criminal Appeal has largely replaced the latter in this branch of his duties. But honour, or, rather, honours, titles, dignities and decorations, is still retained in the sole gift of His Majesty's Prime Minister, untrammelled by courts and rules of procedure. It is now suggested by some ardent reformers in the House of Lords that the Prime Minister of the day should be governed by a set of principles, drafted and enacted for his guidance, in conferring these honours, that he should make statements as to his reasons for giving them, and that any monetary contributions to party funds made by the recipient of the honour should be duly published for the information of all critics. Whether this would impose an impossible task on the Prime Minister we need not consider. Surely the better plan is to follow the precedent already set as regards the prerogatives of justice and mercy. Why not take away the conferring of dignities from a political chief and vest it in a non-political body, who should consider on its merits every recommendation for a public honour made by any great officer of state, and advise His Majesty whether or not it should be granted? A joint committee of both Houses of Parliament, selected by the Speaker and the Chairman of the Committees in the House of Lords, would be a suitable body, and other suitable bodies might readily be suggested. Such a body might be trusted to take a broad view and to remain uninfluenced by contributions to party funds, but to give fair consideration to the reasonable claims of great wealth spent munificently upon worthy public objects. As regards the question of hereditary honours, such as peerages and baronetcies, it seems a pity that these cannot be allowed to fall into desuetude and Lord PALMERSTON'S plan of life peerages be restored. The House of Lords would have none of this in the last century, when Baron PARKE was offered a life peerage; but probably wiser counsels would prevail to-day among a body of peers threatened with the debasing of hereditary titles by their extension to every parvenu of sufficient wealth.

The Final Repeal of Section 2 of the Finance Act, 1912.

THE FINANCE ACT, 1917, which was passed on the 2nd inst., and which has now been printed, by section 5 meets the curious difficulty which arose over the repeal by section 18 of the Finance (No. 2) Act, 1915, of section 2 of the Finance Act, 1912. The 1912 Act, it will be remembered, provided for the apportionment between the "grantor" of the lease and the lessee of the increase under the 1910 Act of licence duties on free licensed premises. This raised the troublesome questions as to the various persons liable under the apportionment, which were discussed in such cases as *Watney, Combe, Reid, & Co.* v. *Berners* (1915, A. C. 885) and *Bodega Co.* v. *Martin* (1915, 2 Ch. 385). To stop this litigation and get rid of hopeless problems the 1915 Act repealed section 2 of the 1912 Act, without prejudice to the validity of payments already made under it. It was foreseen, however (see a letter from Messrs. KING ADAMS & Co. (60 SOLICITORS' JOURNAL, p. 56)) that section 38 of the Interpretation Act, 1889, might prevent the repeal having full effect, since, unless the contrary intention appears, it does not allow a repeal to affect accrued rights or liabilities. This proved to be the case, and in *Lewis* v. *Hughes* (1916, 1 K. B. 831, C. A.) it was held that section 18 of the 1915 Act, although it repealed section 2 of the 1912 Act, did not take away rights already accrued to the lessee under that section, since no "contrary intention" within the meaning of the Interpretation Act appeared. This left section 2 of the 1912 Act, with all its difficulties, operative in a large number of cases, but it is now provided by section 5 of the Finance Act, 1917, as follows:—

> It is hereby declared that the repeal by section eighteen of the Finance (No. 2) Act, 1915, of section two of the Finance Act, 1912 (which related to the distribution of payments on account of liquor licence duties in certain cases), operates and has always operated so as to extinguish any liability to make payments in pursuance of the said section two after the date of the repeal, whether or not the liability existed before the date of the repeal:
>
> Provided that nothing in this section shall affect the validity of any payments actually made between the date of the repeal and the date of the passing of this Act.

We noticed when the Finance Bill was introduced the clause authorizing the investment of trust funds in War Loans, which was inserted in accordance with the undertaking given by the Government at the beginning of the year. This now appears as section 35 of the Finance Act, 1917.

Death Duties and Settled Legacies.

TO ANOTHER point arising out of recent legislation which has become of great practical importance, the Legislature has not yet given attention, though pointedly advised to do so by the Courts. We refer to the question of directions in wills for the payment of death duties on settled legacies and the difficulties caused by the imposition of new duties. This has become the subject of a series of decisions which already rival in number those of a few years ago on the question of property passing to the executor "as such," a matter finally set at rest—notably by the judgment of Lord BUCKMASTER, then Lord Chancellor—in *O'Grady* v. *Wilmot* (1916, 2 A. C. 231). We reviewed the decisions on death duties and settled legacies some months ago (*ante*, pp. 364, 426), and at the latter place we noticed *Re Parker* (*ante*, p. 431; W. N. 1917, p. 137), which had then been just decided by SARGANT, J. On that occasion the learned judge suggested that the great difficulties which had arisen in practice should be met by legislative intervention, and also, as to future wills, by a change in conveyancing forms. No doubt conveyancers are paying attention to the suggestion, but the Legislature moves slowly, and there is nothing dealing with the matter in this year's Finance Act. Possibly the subject does not readily lend itself to such treatment. It should be noticed that *Re Parker* has been affirmed by the Court of Appeal (W. N. 1917, p. 233), and it seems to be settled that, in general, where there is a direction in a will that all legacies shall be free of duties and that these are to be borne by the residuary estate, the direction extends, in the case of settled legacies, to all duties payable before the fund vests in an absolute owner. But it is in each case a question of the construction of the particular will (see *Re Palmer*, 1916, 2 Ch. 391, C.A.), and under a direction for payment of a specific sum free of duty and for its being held in trust, the direction is satisfied when it is paid over to or retained by trustees clear of the duty payable on the testator's death: *Re D'Oyly* (*ante*, p. 336; 1917, 1 Ch. 556).

The Defence of Common Employment.

THE SCOPE of the Workmen's Compensation Act, 1906, is so wide that one seldom hears nowadays of the old and once-upon-a-time favourite plea of "common employment." But in *Hayward* v. *Moss Empires (Limited)* (*ante*, p. 665), this defence has reappeared once again in a reported case. An aspirant to theatrical honours attended the rehearsals of a revue at the invitation of the Moss Empires Co., who were at the time in possession of Drury Lane Theatre. She did so without fee or contract, but in the hope of being ultimately engaged. At one of the rehearsals the producer of the revue—admittedly a

person in the defendants' employment—told her to stand on a scenic staircase. It had not been properly put together, and in standing on it the lady met with an accident. Had she been an employee of the company at a salary less than £250 per annum, she would have been entitled to compensation under the statute. Were she a complete stranger, she would likewise be entitled to compensation at common law on the doctrine of *respondeat superior* for the negligence of the revue company's servant. But the plea set up was that she was neither the one nor the other; she was a "volunteer," and as such a fellow-servant of the company's servants employed on the production of the revue, although not a servant of the company. Therefore the doctrine of "common employment" disentitled her to compensation. The Court of Appeal, however, would have none of this ingenious subtlety, and held that the action was maintainable.

Validity of Paving Notices.

It is instructive to compare and contrast the recent case of *Bristol Corporation* v. *Sinnot* (*ante*, p. 677) with the important military service case of *Ex parte Stubbins* (1917, 1 K. B. 1). In the former case a notice to frontagers requiring them to do certain private street works under section 150 of the Public Health Act, 1875, was in the usual "common form," and gave them only a month in which to do the work. The time given was grossly inadequate. Of course it was named simply as a convenient time in which the parties might object to the provisional apportionment of the work and expenses, for in practice no frontager executes the work ordered; he leaves it to the local authority, with their exceptional facilities for getting it done cheaply. But the Court quashed this notice and consequent apportionments and orders as bad, inasmuch as the corporation had not exercised its discretion at all by considering and fixing a suitable time in which to do the work; in short, they had deprived the frontagers of their statutory option to do the work themselves. On the other hand, in *Ex parte Stubbins*, the military representative, in appealing against the decision of a local tribunal, had given notice of appeal to the claimant for exemption, but had not done so on the prescribed form, as required by the Regulations, because he had been unable to get it from the clerk to the tribunal. It was held that he had done enough to comply in substance with the regulations, which are directory, not imperative. Where a statutory requirement of procedure is not an essential condition precedent, but merely directory, it is enough to prove that a sufficient attempt has been made to comply with the condition, and that failure to do so has not prejudiced the other party. But where it deprives him of a legal alternative right, then such attempt is not sufficient.

Operation of a Disclaimer.

In an article on the doctrine of acceleration (*ante*, p. 574), it was taken for granted, on the authority of PRESTON, that a disclaimer relates back and has the effect of avoiding the disclaimed estate *ab initio*. By "disclaimer" is meant a refusal by the grantee to accept the estate or interest granted to him. Mr. FARRER (*ante*, p. 608) admits that, if this view is correct, it simplifies the doctrine of acceleration, but he denies its correctness. As the question is of considerable practical importance the Editor allows me to defend PRESTON'S view.

The true doctrine, it is submitted, is this:—

A. If a grant is capable of taking effect, its operation depends on whether it is accepted or disclaimed by the grantee. If it is accepted it takes effect *ab initio;* if it is disclaimed it does not take effect at all.

B. A grant is presumed to be for the benefit of the grantee, and therefore the law assumes that he will accept it, unless and until he shews a contrary intention within a reasonable time after the grant comes to his knowledge.

It is hardly necessary to say that in the case of a gift by will an acceptance or disclaimer relates back to the death of the testator.

There is an exception to the general doctrine in the case of a conveyance to a grantee to uses; his disclaimer does not prevent the uses from taking effect under the statute. So, if property is given to a person upon trust, and he disclaims the gift, this does not destroy the trust: *Mallott* v. *Wilson* (1903, 2 Ch. 494). These exceptions, as it is hardly necessary to point out, are not common law exceptions, and they throw no light on the common law doctrine of disclaimer.

One of the cases most frequently cited on the question of disclaimer is *Butler and Baker's Case* (3 Co. 25). I do not rely on it, because it does not seem to me to have been a case of ordinary disclaimer. The facts were that A enfeoffed X and Y of the manor of Hynton to the use of A's son WILLIAM and his wife, and the heirs of their bodies. On the death of A the reversion in fee descended to WILLIAM as his heir-at-law. WILLIAM devised another property, the manor of Thoby, to his wife for life on condition that she gave up her estate in Hynton. On the death of WILLIAM, his wife "waived" her estate in Hynton and entered into possession of Thoby. It was held that the refusal or waiver of the wife related back and made her estate a nullity *ab initio*, so that the husband was solely seised of Hynton, which therefore descended immediately to his heir, but that her refusal did not relate back for other purposes. The doubt I feel (it is more than a doubt) is whether this was a disclaimer in the sense of a refusal to accept an estate so as to prevent it from ever vesting. It seems to me that the waiver of the wife was the repudiation or devesting of a vested estate. During coverture the wife, being under disability, had no power to refuse to accept the estate; she could not prevent Hynton from vesting in her and her husband as joint tenants in tail, and it remained in them during the coverture; but on the death of her husband her disability ceased, and she acquired the right of waiving or repudiating her estate. That this was the real ground of the decision appears, I think, from the cases on dower referred to in the judgment.

Disregarding *Butler and Baker's Case*, I submit that propositions A and B are established by numerous authorities.

In "Perkins's Profitable Book" (secs. 607-8) it is stated that, if a tenant for life offers to surrender the land to him in the remainder, and the latter agrees, it is a good surrender, but if he does not agree "the surrender is not good, for the tenant cannot surrender to him against his will." The author of Sheppard's Touchstone (pp. 284, 5) says that a feoffment, grant, or lease "may become void by disagreement or refusal. . . . . for no estate can be made to a man of anything in fee simple, for life, or otherwise, against his will; and therefore by his disagreement or refusal of it, the estate itself, and the deed whereby it is conveyed, may become void."

In *Wankford* v. *Wankford* (1 Salk. 299), HOLT, C.J., said: "You shall no more force a man to accept of a release against his will than of a deed of grant; and the subsequent refusal makes the deed void *ab initio;* as if a deed of release were delivered to B to the use of the obligor, if the obligor refuses to accept it, it is not the deed of the obligee, and he may plead *non est factum* to it."

In *Townson* v. *Tickell* (3 B. & Ald. 31), where one of two joint devisees disclaimed, it was held that the effect of the disclaimer was to vest the property in the other devisee. Lord TENTERDEN said that the disclaimer made the devise "null and void" so far as the disclaiming devisee was concerned. BAYLEY, J., said: "The effect of that is that the estate never was in him at all." HOLROYD, J., said: "I think that an estate cannot be forced on a man. A devise, however, being *primâ facie* for the devisee's benefit, he is supposed to assent to it, until he does some act to shew his dissent. The law presumes that he will assent until the contrary be proved; when the contrary, however, is proved, it shews that he never did assent to the devise, and consequently that the estate never was in him." BEST, J., was of the same opinion.

PRESTON says: "The law presumes that every grant, &c., is for the benefit of the grantee, &c., and therefore till the

contrary is shewn, supposes an agreement to the grant. From the moment there is evidence of disagreement, then in construction of law the grant is void *ab initio*, as if no grant had been made: see *Thompson* v. *Leach* (2 Ventr. 198, 3 Mod. 296); and in intendment of law the freehold never passed from the grantor": (Shepp. Touch., by PRESTON, 285: 2 Abst. 226).

In *Siggers* v. *Evans* (5 E. & B. 367), a deed of assignment executed in favour of the plaintiff, but without his knowledge, was held to pass the property to him at once, so that his subsequent assent made it take effect as from its date, and thus avoid a writ of execution delivered to the sheriff before the assent.

The doctrine that a person to whom property is given upon trust may disclaim it before he accepts the trust, is unintelligible except on the theory that the disclaimer avoids the gift *ab initio* so far as he is concerned; for if the property vested in him under the gift, and remained in him until disclaimer (which is Mr. FARRER'S view), he would hold it as trustee and could not get rid of it except in accordance with the terms of the trust. When property is once vested in a person as trustee he cannot disclaim it: *Crewe* v. *Dicken* (4 Ves. 97), cited in *Small* v. *Marwood* (9 B. & C., at p. 307). The law as to disclaimers by trustees is clearly laid down in *Urch* v. *Walker* (3 Myl. & Cr. 702); *Adams* v. *Taunton* (5 Madd. 435); *Peppercorn* v. *Wayman* (5 De G. & S. 230), and other cases, the effect of which is thus stated by Mr. DAVIDSON: "After a disclaimer by any party, the instrument giving the estate is to be read as though the name of that party, and every expression connected with it, had been originally omitted from the instrument": 5 Prec. Conv. (ii.) 664n.

In *Peacock* v. *Eastland* (L. R. 10 Eq. 17), land was conveyed to two persons by a disentailing deed under the Fines and Recoveries Act: they disclaimed, and it was held that this made the deed inoperative. Lord ROMILLY relied on the general principle that under the common law an estate cannot be vested in a man against his will, and on the decision in *Townson* v. *Tickell* above referred to. The accuracy of Lord ROMILLY'S decision has never been questioned except by Mr. FARRER.

In *Re Wimperis* (1914, 1 Ch. 502) an annuity was bequeathed to a married woman for her separate use, without power of anticipation; she disclaimed the annuity, and WARRINGTON, J., held that her disclaimer was effectual. The learned judge said: "If the married woman has in fact declined the gift, she never had an estate for her separate use, and has never been subject to the restraint on anticipation." In other words, the disclaimer related back to the death of the testatrix.

These are weighty, clear, and explicit authorities. Mr. FARRER'S authorities cannot, I submit, be so described. Some of them depend on obsolete doctrines, and are too obscure to throw any light on the subject: as, for example, LITTLETON'S statement (section 685) of the effect of a feoffment made by deed to several feoffees, where one of them who had not accepted livery afterwards disclaimed. This seems to have been the result of the peculiar potency attributed under the old law to a feoffment by deed: see Co. Litt. 359a; 2 Preston Abst. 408; Challis R. P., 3rd ed., 105, 405. And some of Mr. FARRER'S arguments, such as those based on the effect of an entry for condition broken, or on the doctrine of disseisin by one person to the use of another, do not seem to me to have any bearing on the operation of a disclaimer.

Mr. FARRER will not, I hope, think me discourteous if I say that he sometimes lays down propositions of doubtful accuracy with the same confidence as if they were incontrovertible. For example, in giving his view of the operation of a disclaimer (*ante*, p. 609) he says: "That the estate is in the donee till disclaimed by him is not and cannot be questioned." This assumption seems to me to be quite erroneous, and to result from Mr. FARRER having mixed up two distinct doctrines laid down by VENTRIS, J., in the case of *Thompson* v. *Leach*, referred to later. In another part of his article (*ante*, p. 642) Mr. FARRER puts the case of a devise to C. for life, remainder to his first and other sons in tail, remainder to D. in fee, where C. disclaims before birth of a son, and says: "Here clearly at law [meaning before 1845] D.'s estate is accelerated into a fee in possession," so as to destroy the contingent remainder to C.'s unborn sons. In making this statement, Mr. FARRER shews a degree of courage which verges on recklessness. So far as I am aware, there is no authority whatever to support his statement, and I believe it to be wholly erroneous. The point is referred to later in connection with the decision in *Re Scott*.

The only authorities cited by Mr. FARRER which call for detailed examination are the following:—

(1) Y. B. 37 Hen. VI. Trin., pl. 23. The case itself has no bearing whatever on the point now under discussion. A man conveyed land to feoffees to his own use, and sold it first to H. and then to J.; the whole question was whether the feoffees ought to convey to H. or to J. Nobody disclaimed, and no question of acceleration arose. But after the case was decided there appears to have been a kind of moot in open court, in which two counsel named JENNEY and FINCH took part. Mr. JENNEY* (probably WILLIAM JENNEY, afterwards a justice of the King's Bench) said that he remembered a case (*il vist le cas*) where a testator directed his feoffees to make an estate for life to J., with remainder to C. in fee: J. refused to take the estate, and C. had a subpœna against the feoffees to make the remainder to him after the death of J., omitting J. Mr. FINCH agreed, and said that in this case, if J. refused to take the estate, the feoffees ought to make an estate for the life of J. to a certain person to the use of the deceased feoffor, with remainder *ut supra*. He went on to say that the case supposed was quite different from the case of a devise of land devisable by custom, because if such land was devised to one for life, with remainder over, and the first devisee refused the estate, the devise would take effect immediately (*meintenant*), and the remainderman could enter. But Mr. FINCH said that in the case of lands vested in feoffees to uses, the remainderman could not enter during the life of the disclaiming tenant for life, and was therefore entitled to a subpœna against the feoffees to compel them to convey the estate in remainder to him at once, without waiting for the death of the tenant for life.

The use which Mr. FARRER makes of this extrajudicial debate is, if he will forgive my saying so, remarkable for its boldness.

(a) He quotes the opinions expressed by the debaters as if they were the decisions of a Court, and goes so far as to say (*ante*, p. 609) that the feoffee to uses was "ordered to make feoffment to one for the life of C." There was no "order." Mr. FINCH merely gave his personal opinion as to the duty of the feoffees.

(b) Mr. FARRER says (*ante*, p. 609) that "the Judge doubted whether, if land was granted (demised) to B. for life, remainder over, the remainderman, on B.'s refusal, could enter during B.'s life," which he afterwards expands (*ante*, p. 628) into the positive statement "that if, at common law, a legal estate was by *deed* given to A. for life, remainder to B., and A. disclaimed, as the life estate was valid in inception, B.'s remainder was good, but not accelerated." This statement is, in my humble judgment, wholly erroneous, and there is not a word in the Year Book to justify it. Mr. FARRER has been misled by FITZHERBERT'S summary of the case, which, among other inaccuracies, contains a misprint of "demis." for "devis." This misprint is fairly obvious, even without consulting the original, because FITZHERBERT goes on to say that the case is one of lands devisable by custom. Mr. FARRER has built on this misprint an argument (or rather a positive statement) as to the effect of a disclaimer of lands "granted (demised)" or "given by deed" which has no solid foundation.

* I hope it is not an anachronism to describe counsel who practised in the fifteenth century by the title of "Mr." The reader may, if he likes, expand it into "Master." The statement that JENNEY and FINCH were counsel is made in reliance on Foss; according to him there was no judge of the name of JENNEY before 1481, and no judge of the name of FINCH before 1634.

(c) Mr. FARRER quotes the case related by Mr. JENNEY as above stated, and asks, if the disclaimer of C., the tenant for life, operated to avoid his estate *ab initio*, as if it had never been limited, "why was not B. [the feoffee to uses] ordered to enfeoff D. [the remainderman] in possession?" I approach the subject of uses before the Statute in fear and trembling, for a little knowledge is a dangerous thing, and even the late Mr. J. C. GRAY fell into error through misapprehending the peculiarities of the pre-historic use (see 29 L. Q. R. 307-311). My answer to Mr. FARRER'S question is therefore subject to correction by Mr. BAILDON, or Mr. BOLLAND, or Mr. TURNER, or some other expert, but I should say that B. held the land upon what we at the present day would call an executory or executive trust, and that if the intention of the settlor was that D., the remainderman, should not take until after the death of C., it would not be the duty of B. to convey the land to D. in possession. In the case of executory trusts, the primary question is one of intention. In the case of common law remainders, the primary question is whether the doctrine of seisin allows the intention of the parties to take effect.

(d) According to the opinion of Mr. JENNEY and Mr. FINCH, when a remainder is limited by way of devise or trust, it is not made void by the disclaimer of the particular estate. This is a well-established proposition, and it was hardly necessary to exhume the Year Book of 1459 in order to confirm it. But Mr. FARRER seems to think that the same rule applies to estates limited by deed at common law, for he cites the opinion of Mr. JENNEY and Mr. FINCH as an authority for the proposition that a remainder limited by a common law assurance is not made void by the disclaimer of the particular estate (*ante*, p. 609). Does Mr. FARRER really think that common law remainders are governed by the same rules as remainders limited by way of devise or trust? His argument is unintelligible on any other theory. CHARLES SWEET.

(*To be continued.*)

The Normal Perils of the Highway.

III

We have expressed our view of the common law position in these interesting cases with a certain measure of reserve, though we think the reader will find that view to be fully covered by the decision in *Heath's Garage* (*Limited*) v. *Hodges* (1916, 2 K. B. 370). It cannot be forgotten, however, that the matter has suffered some occultation, and upon its recent discussion was the subject of difference in the very best modern judicial *dicta;* and, furthermore, that some lawyers find it is not very easy to reconcile the judgment in *Heath's case* with an earlier one, delivered in 1911, in the same court, in which, for one thing, the late Lord Justice VAUGHAN WILLIAMS states emphatically, and, it may be thought, very suggestively, that he does not think it is true law that a farmer is entitled to turn out, on pasture adjoining an highway without a fence, untended cattle to such a number that they are likely to obstruct the highway by day or night, without the farmer being liable to an action by those who, using the highway, happen to be hurt by the obstruction: *Ellis* v. *Banyard* (106 L. T. Rep. 51, 54). We therefore desire to refrain from any appearance of being too dogmatic.

Reverting, then, for a moment to the case of the young merchant and his wife, this explanation should suffice to shew how, according to the better opinion, the common law and the test of the extent of dedication significantly affect the situation. If the farmer had argued that tandem bicycles did not exist when the way was dedicated, reference could be made to the decision as to the conversion, at Eastbourne, of a right of way to a private dwelling-house into one to a garage: *White* v. *The Grand Hotel, Eastbourne* (1913, 1 Ch. 113, affirmed 58 SOLICITORS' JOURNAL, 117). And, in order to prevent misconception, we would add that we consider the farmer's advocate went too far in submitting it did not behove his client to fence so as to prevent "his animals" getting on the adjoining highway, and that scienter on the part of his client was quite irrelevant to the legal consequences. We consider the better opinion to be that the statement should be limited to harmless domestic animals, and that previous knowledge of the mischievous propensities of the straying animal should make him anticipative, and, consequently, in the absence of reasonable precaution, would render him liable. It is surely only good sense to differentiate between a domestic animal which the Court recognizes, or evidence shews, is not likely to do harm to a passer-by, and another, it may be of the same species, which nobody who owned it could fail to know, either from its nature or from information received, was likely to do such harm. (In addition to the cases already cited, *Cox* v. *Burbidge* (13 C. B. N. S. 430, 436); *Pinn* v. *Rew* (32 T. L. R. 45); and *Turner* v. *Coates* (115 L. T. R. 766) may be considered on the last point).

Many of our readers, while reading our comments, will have called to mind the recent case of *Ruoff* v. *Long & Co.* (1916, 1 K. B. 148), respecting an unattended motor lorry, and, inasmuch as the decision therein is of such universal interest and importance to the public, we need make no apology for placing it in our list. It will be remembered that in this case a brewer's steam motor lorry was momentarily left stationary and unattended in a street in Portsmouth. To set it in motion again it was necessary to withdraw a safety pin and to manipulate three levers. Two soldiers coming along, one of them succeeded in doing this, and unintentionally drove the lorry into a shop front. We may suppose that these two soldiers, if they were not infants, were men of straw, and that the brewer would be the only person worth proceeding against. But, then, did the mischief to the tradesman's shop front happen through the actionable negligence of the brewer? Was there any duty on the brewer's part towards the tradesman? The Court answered this problem in the negative, and held the brewer accordingly free of any liability. For, in the first place, an inanimate lorry standing thus is not a dangerous thing. In itself it is perfectly safe, and can do no harm to anyone or any thing; evidently more safe than an inadequately attended horse and carriage. Was the brewer bound to anticipate that two irresponsible persons, by their irresponsible acts, would convert the lorry into a source of danger? The Court decided he was not so bound. No, the tradesman, as we explained in the last article, to obtain any recompense must be prepared with further incriminatory testimony, as, for example, that similar occurrences had previously happened, and that the men or lads in the particular locality were addicted to getting into unattended horseless carriages and playing such pranks. And, in the second place, assuming that the brewer has fallen short of his duty in thus leaving the lorry, it cannot be said that that negligence is the effective and proximate cause of the mischief, because the damage to the shop front resulted from the intervention of the soldier, and, as has just been remarked, such intervention is not of such a character that the brewer, as a reasonable person, ought to have anticipated that it might happen. It will, however, be useful, we think, to compare, and remember, the old case where children, in play, got up into a cart that, with a horse, had been left unattended by a carman, another child meanwhile leading the horse on, with the unfortunate result that the plaintiff was thrown down and injured. Lord DENMAN remarked that the carman was deficient in ordinary care, and also offered temptation to children, and his master was accordingly held liable in damages: *Lynch* v. *Nurdin* (1 Q. B. 29). Disregarding, as we think we may, the fact that children's cases are always troublesome, the very apparent and instructive distinction is that, in the case of a horse, it is easily led or driven, but in the case of the steam lorry anyone who has the knowledge, or the intelligence, to withdraw a safety pin and manipulate several levers may be assumed to act in general with sobriety and advertence to results.

Unquestionably it is a birthright of every subject of his Majesty to pass and repass along any public highway: see *Boss* v. *Litton* (5 C. & P. 407). But it seems correct, we repeat, to consider that this right of passage is subject to every user of it ac-

cepting the normal risks of injury attendant at the time upon such passage; or, in other words, the risk of injury from any occurrence that peradventure may happen to him, and that is unconnected with a wrongful act. The introduction of novel, or even of faster traffic can, as respects the landowner, neither increase nor diminish that right, although such introduction necessarily increases the risks of the passers-by, and to-day a pedestrian must put up with having his enjoyment spoilt by motor dust, just in the same way as his forefathers had to submit to a splash of mud on the dress, or even in the eye. In short, one may not look a gift horse in the mouth, and an occasional mishap in the use of the King's highway is the very insignificant price paid for an invaluable, if limited, right, and the possession of which has unquestionably profoundly influenced the best happiness of the individual, and the progress of national civilization and commerce.

Correspondence.

Deduction of Income Tax from Weekly Payments.

[*To the Editor of the Solicitors' Journal and Weekly Reporter.*]

Sir,—In view of the discussion on this subject in the pages of one of the legal journals, I enclose you a copy of some correspondence with the Commissioners of Inland Revenue which may be of interest to the profession. A. C. Dowding.

14, South-square, Gray's Inn, London, W.C.
July 12.

The following is the correspondence referred to:—

[Copy.]
14, South-square, Gray's-inn, W.C.,
12th March, 1913.

Dear Sirs,—I should be much obliged if you would kindly give me your ruling on the following point:—

A client of mine is entitled under a will to be paid £1 a week, the words of the gift being as follows:—"I give and bequeath unto my eldest son . . . £1 a week to be continued after his death to . . . ." The question arises in reference to the £1 a week. The trustees of the will, for the sake of convenience, instead of paying my client £1 weekly, pay him quarterly, and claim to deduct income-tax.

I have had some correspondence with the solicitors, and pointed out to them that my client was entitled to a *weekly* payment, and this being so, they were not entitled to deduct the tax, as deduction or taxation at the source only applied to annuities or other yearly payments, and for the purpose of income-tax the weekly payment is not an annuity. This seems to be so because, of course, my client could in strictness demand to be paid £1 each week. I have referred the solicitors to 16 & 17 Vict. c. 34, s. 40, which applies to deduction by persons "liable to the payment of any rent or any *yearly* interest of money or any *annuity* or other annual payment," and does not entitle the person paying to deduct tax from income accruing otherwise than by reference to the year.

I should be much obliged if you would be good enough to inform me whether my contention is correct.

I beg to remain, Yours truly,
Arthur C. Dowding.

To the Commissioners of Inland Revenue,
Income Tax Department,
Somerset House, W.C.

[Copy.]
Inland Revenue, Somerset House, W.C.,
5th April, 1913.

Sir,—With reference to your letter of the 12th ultimo., I am directed by the Board of Inland Revenue to acquaint you that they are not aware of any provision in the Income Tax Acts which would sanction a deduction for income-tax being made from a weekly payment under a will.

I am, Sir,
Your obedient Servant,
R. V. Nind Hopkins, for Secretary.

A. C. Dowding, Esq.

Liability for Floods.

[*To the Editor of the Solicitors' Journal and Weekly Reporter.*]

Sir,—Referring to your very interesting comments in your issue of the 11th inst. on the subject of "Liability for Floods," may I suggest that a full note of the decision of the House of Lords in the case of *Greenock Corporation* v. *Caledonian Railway Co.* would be of interest to those of your readers who, like myself, have not had an opportunity of seeing the report of the case?

Aug. 15. An Old Subscriber.

[We hope to publish a report of the case.—Ed. *S.J.*]

CASES OF LAST SITTINGS.

Court of Appeal.

E. WULFF v LOUIS DREYFUS & CO. No. 2. 19th, 20th, and 22nd July.

Arbitration—Appeal—Sale of Goods—Grain—Dispute between Buyer and Sellers—Arbitration Clause—Appeal to Appeal Committee of the London Corn Trade Association—Award in Form of Special Case Stated for the Opinion of Counsel—Incompetency of Appeal against such Award—Arbitration Act, 1889 (52 & 53 Vict. c. 49), s. 7—Rules of London Corn Trade Association, Clause 7.

Under a contract to buy a parcel of maize a claim was made by the buyer against the sellers which went to arbitration. From the award of the arbitrators an appeal was lodged by the buyer to the Appeal Committee of the London Corn Trade Association. The question had arisen as to whether the request for arbitration was made in time, and it was agreed that the award of the Committee should be stated in the form of a special case for the opinion of counsel on this point. If counsel decided that the request was lodged too late, the award was to stand; if otherwise, it was to be set aside, and the case to go to arbitration on its merits. Counsel held that the request was out of time. The buyer appealed. A preliminary objection was taken by the sellers, that no appeal was maintainable to the Court from an award decided on the opinion of counsel, taken in the form of a special case submitted by the Appeal Committee to him.

Held, that the objection was valid, and the appeal could not be maintained.

Appeal by Mr. Elkan Wulff, of Copenhagen, as the buyer of a parcel of grain, from a decision of a Divisional Court (Rowlatt and Shearman, JJ.) refusing to set aside an award of the Appeal Committee of the London Corn Trade Association in an arbitration between the appellant and Messrs. Louis Dreyfus & Co., corn merchants, of London and Paris. The appeal raised a point of law upon which there appeared to have been no previous decision, and was whether the Appeal Committee, having stated a case during the hearing of the arbitration on a point raised therein for counsel's opinion, an appeal would lie from their award founded on his decision.

Swinfen Eady, L.J., in dismissing the appeal, said the buyer claimed that the award was bad for an error appearing on the face of it. The matter arose out of a contract dated 15th September, 1914, under which the buyer agreed to buy a parcel of maize of about 700 tons. There was the usual clause for arbitration in the event of any dispute, and it was to be subject to the rules of the London Corn Trade Association, which by clause 7 provide that "All claims for arbitration must be made, and the party claiming must appoint and instruct his arbitrator, not later than twelve months after expiry of contract time of shipment, and not later than six months after final discharge of ship, which ever period expires last. . . ." There was a claim by the buyer which went to arbitration. The arbitrators made their award, in which they said the buyer had no claim on the seller, in respect of the contract, the claim for arbitration having been made out of time. That was really the dispute between the parties, and was taken as a preliminary point in the arbitration, and the sellers' objection that proceedings were instituted out of time was upheld. The buyer appealed to the Appeal Committee, and during the hearing a suggestion was accepted that the award of the committee should be stated for the opinion of counsel, and not in the form of one for the opinion of the Court. The counsel selected was Mr. R. A. Wright, and his decision was adverse to the buyer. In the award the Appeal Committee stated that "on the suggestion of the sellers the buyer has agreed that the question shall be submitted to counsel in the same way as it would be submitted to a court under a special case. The question was whether the Appeal Committee were right in their decision that, on the construction to be given to the provision in clause 7—"not later than six months after final discharge of ship, which ever period expires last . . . ." the buyer was out of time or not. If, in the opinion of counsel, the Appeal Committee was wrong, then the award of the arbitrators was to be set aside and the dispute left to be dealt with by arbitration on its merits. The award thus having been made by the Appeal Committee for the opinion of counsel, and he having given his opinion that the Appeal Committee were right in deciding that the buyer was out of time in his claim for arbitration, in the appeal by the buyer the objection was taken that no appeal really lay from that decision. If it had been a special case under section 7 of the Arbitration Act for the opinion of the Court, then the judgment of the Appeal Committee might be brought up for review before the Court as a matter of course. But, in his lordship's opinion, where the parties agreed to substitute for the Court the opinion of counsel, no appeal was competent, and therefore the judgment of the Divisional Court holding that the appeal could not be maintained must be affirmed.

Bankes and Warrington, L.JJ., concurred in the appeal being dismissed.—Counsel, for the appellant, *Roche*, K.C., and *Simey*; for the respondents, *George Wallace*, K.C., and *Rayner Goddard*. Solicitors, *W. A. Crump & Son; Coward & Hawksley, Sons, & Chance.*

[Reported by Erskine Reid, Barrister-at-Law.]

High Court—Chancery Division.

BRUTY v. EDMUNDSON. Eve, J. 11th July.

COSTS—TRUSTEE—CHARGES OF MISCONDUCT—ALLEGATIONS NOT SUBSTANTIATED BY PLAINTIFF—NO RELIEF SOUGHT AGAINST TRUSTEE—BRIEFING LEADING COUNSEL—"INSTRUCTIONS FOR BRIEF."

A plaintiff who has failed to substantiate allegations of misconduct against a defendant cannot escape from liability to pay the costs reasonably incurred by that defendant in relation to those charges, the truth or falsity of which had to be determined at the trial, by abstaining from claiming any relief against that defendant and by insisting in the pleadings that he is sued only as a trustee.

These were two summonses to review taxation. The first related to the amount to be allowed for "instructions for brief." The second related to the costs of briefing leading counsel on behalf of a defendant trustee against whom no relief for costs or otherwise was claimed, but against whom allegations of misconduct were made which the plaintiff failed to substantiate. It was contended on behalf of the respondent that, where a trustee does not attempt to defend the trust estate, but only his own character, the Court does not allow his costs out of the trust estate, and that the trustee, being only a nominal defendant against whom no relief was sought, ought only to be allowed to recover from the plaintiff such costs of the action as he would be allowed out of the trust estate if recourse had to be made to that estate for the payment of his costs.

July 11.—EVE, J.—The two summonses with which I have to deal are summonses on the part of the defendants other than the defendant, George Ewbank Edmundson, to refer back to the Taxing Master his certificate filed 4th April, 1917, with a view to his allowing certain of the objections lodged by the applicants to his taxation on 30th November last. One summons relates to an item of £105 charged in the bill brought in by the defendants, George Edmundson, Charles F. P. Edmundson, and T. O. Burrill, for instructions for brief, of which one-half has been disallowed. It is conceded that, *prima facie*, this objection relates to a question of *quantum*, but it is contended that a note of some figures made by the Master on the bill shews that in arriving at his decision to allow 50 guineas only for this work he improperly regarded it as partly paid for by the £15 15s. and £10 10s. which he had previously allowed for "instructions for defence" and for "instructions for affidavit of documents" respectively. I do not think this conclusion necessarily follows from the note on the bill, and having regard to the fact that the details of the entry under the item "instructions for brief" include the perusal of many documents which must necessarily have been carefully examined for the purposes of the defence, and in a lesser degree for the purposes of discovery, the Master was, I think, bound to take into consideration the allowances already made in respect of these two matters when he came to fix the proper fee to be allowed for work which to some extent covered the same ground. I cannot see any sufficient material for holding that the Master has proceeded on a wrong principle, and if no question of principle is involved his decision on the *quantum* of such an item is conclusive: *Re Ogilvie* (1910, P. 243). Accordingly, I dismiss this summons with costs. The other summons is a summons by the defendant, Alfred Edmundson, and he seeks to have the decision of the Taxing Master reviewed by the inclusion in his bill as taxed of items amounting to a total of between £300 and £400, representing costs and payments out of pocket incurred and made in briefing leading counsel at the trial on behalf of himself and his co-trustee, the defendant, Charles Edmundson. The two defendants, Alfred and Charles, were and were sued as two of the trustees of the settlement which the plaintiff in the action sought to have in part set aside or reformed, the other two trustees being their co-defendants, George and George Ewbank Edmundson, who were sued as trustees and in their personal capacities as beneficiaries under the settlement. George Ewbank Edmundson did not appear in the action, and, until shortly before briefs were delivered, the defendants, George Edmundson, Burrill, and Charles Edmundson, were all represented by a firm of solicitors, of which Charles was a member, and Alfred retained another firm as his solicitors. It is not suggested that if this condition of things had been maintained for the trial Alfred, against whom no charge of impropriety was made by the pleadings, and who by his defence submitted to act in all respects as the Court should direct, would have been justified in incurring the expense of briefing leading counsel; but it appears that when counsel was advising the other defendants on evidence he expressed the opinion that Charles should be represented at the hearing separately from his co-defendants, George and Burrill, and thereupon, in lieu of briefing separate counsel for Charles, an agreement was come to whereby his name was to be added to the brief then about to be delivered on behalf of Alfred. The agreement is recorded in the bill delivered by his solicitors to Alfred, dated 12th October, 1915, in these terms: "Note.—To save expense it was arranged that Mr. Charles Edmundson should be included in this brief, both in his position as a trustee and in his personal capacity." I do not pause to examine how far the concluding words of that note accurately describe Charles's position in the action, but no alteration was made in the form of the bill, which continued to be made out, and was, in fact, carried in for taxation, as Alfred's bill of costs. Similarly, no alteration was made in the bill of the other defendants after 12th October, and this bill was carried in for taxation as the bill of costs of George, Charles, and Burrill. On these facts the respondent bases his first answer to this summons. According to his contention, the bill which the Master has taxed is the bill of Alfred; it is not, he argues, suggested that Alfred would have been justified in briefing leading counsel, and the summons, which seeks to review the taxation of his bill by allowing the items for leading counsel, must therefore fail. I think in form this contention is right, but in form only. The entries in the bill after 12th October ought to have been charged to Alfred and Charles jointly, and as from that date the bill ought to have been brought in for taxation as the joint bill of the two; but no one disputes or repudiates the arrangement referred to in the note I have read from the bill, and no one in the face of that note suggests that he has been misled by the manner in which this bill and the bill of the other defendants were brought in for taxation. The Taxing Master, in the presence and with the tacit consent of all parties, has conducted the taxation on the footing that the agreement was in fact come to, and would, I doubt not, have allowed the titles of the bills to be amended had objection been taken thereto. In these circumstances I cannot allow this application to be disposed of on an objection which goes to form only, and does not in any way affect substance. I turn, therefore, to the consideration of the summons on its merits. [His lordship then considered the merits at length, and continued:] The question in these circumstances is, Can the plaintiff, who has failed to substantiate allegations of misconduct against a defendant, escape from the liability to pay the costs reasonably incurred by that defendant in relation to those charges, the truth or falsity of which had to be determined at the trial, by abstaining from claiming any relief against that defendant, and by insisting in the pleadings that he is sued only as a trustee? In many cases I should say obviously not. The allegations may be so reckless or so gross as to negative the suggestion that the plaintiff could make them with impunity, but in this case my difficulty lies in this, that I have on the one hand a plaintiff upon whose conduct no reflection has been or can be made, and who indeed is entitled to some sympathy in the loss he has already sustained, and on the other hand a defendant who I have held to have been justified in construing the allegations as allegations of improper conduct on his part as a professional man, and in preparing to vindicate his character at the trial by being represented by two counsel. I think, however, when once I have arrived at the conclusion that the plaintiff could not, so to speak, limit his liability in the matter of costs by asking for no relief from the defendant, I ought to give effect to the conclusion by holding that, having failed to substantiate the allegations, he must bear the consequences. Accordingly, I propose to refer the matter back to the Taxing Master, with an intimation that the defendant ought to be allowed the costs of briefing two counsel. I think in arriving at the decision he did the Taxing Master was inclined to regard too much the relationship of the defendant to the trust estate, and as a result of the whole discussion I should say that, *prima facie*, a plaintiff who makes relevant allegations of misconduct against a party to the action, and fails to prove them, must pay the costs incurred by that party in rebutting those allegations, and cannot escape from the liability by making no claim against the party attacked or by suing him as a trustee. Of course, if the allegations are irrelevant to any issue in the action, the remedy is to get them struck out on that ground. The plaintiff must pay the costs of this summons.—COUNSEL, *P. O. Lawrence*, K.C., and *Dighton Pollock; Maugham*, K.C., and *Begg*. SOLICITORS, *Burton, Yeates, & Hart*, for *Edmundson & Gowland*, Masham; *Duffield, Bruty, & Co.*

[Reported by S. E. WILLIAMS, Barrister-at-Law.]

***Re* A. B. PLUMMER.** Younger, J. 20th and 27th July.

COSTS—ORDER FOR TAXATION OF SOLICITOR'S BILL—DELAY—MOTION TO DISCHARGE ORDER—SOLICITORS ACT, 1843 (6 & 7 VICT. C. 73), S. 37.

The decision of the Court of Appeal in the case of Re Brockman (1909, 2 *Ch.* 170) *is not intended to alter the unqualified form of prohibition against proceedings being commenced by a solicitor in respect of his bill of costs, pending the hearing of the reference to tax such bill before the Taxing Master which was in use before that case.*

Accordingly, where such prohibition was inserted in the order of course to tax, a motion by the solicitor to discharge the order on the ground of error under section 37 of the Solicitors Act, failed. In the opinion of the Court it would be desirable if the words qualifying such prohibition by directing the Taxing Master to make his certificate in a month were inserted in all orders of course so as to prevent abuse of the process of the Court by delay.

Held, that where on the unanswered testimony of the solicitor the client was using the order to tax for purposes of delay, the Court had inherent jurisdiction to declare, and in this case did declare, that unless the client took an appointment to tax within fourteen days, the order to tax was to be deemed to have been abandoned and forthwith discharged.

This was a motion by a solicitor to discharge an order of course for taxation of his bill of costs. On 27th January last the solicitor delivered his bill, and on 27th February the client obtained an order of course for taxation thereof, which was similar to Form 2 in the seventh edition of Seton on Judgments and Orders at p. 255, and contained no submission to pay and no order for delivery of papers. But the order did contain an additional direction, which was not in Form 2, that no proceedings be commenced against the client in respect of the bill pending the reference. Form 1 in Seton, which is the form for taxation of a bill delivered in one month where the client asks for delivery of papers, does contain a submission to pay, and also an order that no proceedings shall be commenced by the solicitor in respect of the bill pending the reference; and Form 4 in Seton, which is for

taxation of a bill delivered more than one and less than twelve months, contains a submission to pay and also an order that no proceedings shall be commenced by the solicitor in respect of the bill pending the reference, but that the Master is to make his certificate in a month (unless he extends the time), or the order is to be of no effect. On 15th March a copy of the order made in this case was served on the solicitor, but the client, though requested to do so, made no appointment to proceed with the taxation, and the solicitor alleged on oath that he believed that the client had no intention of obtaining an appointment to tax or of proceeding under the order, and this allegation had not been traversed by the client. This was a motion seeking to discharge the order of course for irregularity in that the words in the order restraining the commencement of proceedings by the solicitor were "erroneously inserted, or in the alternative that the mistake in the said order may be corrected by striking out the said words, or in the further alternative that, notwithstanding the said order, the applicant might be at liberty to commence proceedings against the client."

YOUNGER, J., in the course of a long considered judgment, and after stating the facts, said: It is quite clear that prior to the decision in the case of *Re Brockman* (1909, 2 Ch. 170) it was the universal practice in orders of course obtained by the client within one month from the delivery of the bill to impose an unqualified prohibition of proceedings in the terms of the order in the present case, but in orders made after the expiration of one and before the expiration of twelve months from delivery the qualified form directing the Taxing Master to make his certificate within one month (unless he should extend the time), or that the order was to be of no effect, was the form in use. In that state of things the case of *Re Brockman* (1909, 2 Ch. 170) came before the Court of Appeal, and the form there approved by the Court for the order to tax bills within one month from delivery contained a prohibition against commencing proceedings in the qualified form directing the Taxing Master to make his certificate in a month (unless he should extend the time) or that the order was to be of no effect. The failure to insert these qualifying words or to omit all reference to the matter is the mistake on which the solicitor relies in the present case. In my opinion the Court of Appeal did not intend in *Re Brockman* (which was a decision upon the question of statute-barred items) to alter the unqualified form of prohibition which was previously in use in these cases, and it is noticeable that Form 1 in Seton on Judgments and Orders, which was submitted for the approval of the Master of the Rolls, reverts to the earlier unqualified form, and it is manifest that Form 2 in Seton was intended to have added to it the sentence containing the prohibition against commencing proceedings contained in Form 1. Under these circumstances, I am of opinion that the alteration in this respect of the order of course theretofore in use, which might be supposed to have been sanctioned in *Re Brockman*, is not deliberate, and that it cannot be said that, the insertion in the present order of the old order of prohibition is a mistake or unjustified by the Solicitors Act, 1843, s. 37. I regret that I have been compelled to come to this conclusion, because I think that it would have been desirable if the words qualifying the prohibition by directing the Taxing Master to make his certificate in one month had been inserted in all orders of course, which, having regard to the power of the Taxing Master to extend the time, would cause no injury to the client and would protect the Court from any abuse of its process by excessive delay; and for my own part I should be glad if the common order to tax a bill delivered within one month were to take that form in the future. It is hardly a sufficient answer to say that the remedy of the solicitor in case of delay is himself to proceed under the order. I consider, however, that though in the present case no objection can be taken to the order on the ground of irregularity, the unanswered allegation of the solicitor that the client was using the order for the purposes of delay enables the Court to deal with the case under its inherent jurisdiction. I shall therefore order that, unless the client within fourteen days takes an appointment before the Taxing Master, he shall be deemed to have abandoned the order, which shall thereupon be discharged.—COUNSEL, *J. W. Manning; Swords.* SOLICITORS, *H. B. Priest; G. W. Grice-Hutchinson.*

[Reported by L. M. MAY, Barrister-at-Law.]

King's Bench Division.

HARRISON v. KNOWLES. Bailhache, J. 13th and 28th June.

CONTRACT—CONDITION OR WARRANTY—SALE OF SHIP—ERROR IN STATEMENT OF DEAD-WEIGHT CAPACITY—"NOT ACCOUNTABLE FOR ERRORS IN DESCRIPTION."

Where the subject-matter of a contract of sale is a specific existing chattel, a statement as to some quality possessed by, or attaching to, such chattel is a warranty, and not a condition, unless the absence of such quality, or the possession of it to a smaller extent, makes the thing sold different in kind from the thing described in the contract. A ship was sold by the defendants under a contract of sale which described it as having a dead-weight capacity of 460 tons, whereas it had only 340. This representation was innocent. The contract contained the words "not accountable for errors in description."

Held, that the statement as to the dead-weight capacity was a warranty, and not a condition, and that the effect of the words "not accountable for errors in description" was to prevent the defendants from being liable.

Query, whether, if the statement as to dead-weight had been a condition, and not a collateral warranty, the words "not accountable for errors in description" would have protected the defendants.

The plaintiffs were the purchasers of two steamers from the defendants. The defendants, for the purposes of the transaction, prepared and submitted to the plaintiffs a document of particulars, in which the steamers were described as having a dead-weight capacity of 460 tons all told, and which contained the words "not accountable for errors in description"; and on these terms the contract was completed by a memorandum signed by the parties on 9th December, 1915. It was subsequently found that the actual dead-weight capacity was only 340 tons, which made the value of each steamer £2,250 less; and the action was to recover the sum of £4,500. It was contended by the plaintiffs that the dead-weight given in the particulars was either (a) a condition of the contract or (b) a collateral contract or warranty. It was not suggested that the misdescription was dishonest.

BAILHACHE, J., said he took it as clear that an action for damages would not lie for an innocent misrepresentation unless that misrepresentation was contractual, and then it became either a condition or a warranty: *Heilbut, Symons, & Co.* v. *Buckleton* (1913, A. C. 30). His lordship discussed the question whether the memorandum signed by the parties on 9th December, 1915, which did not include the particulars furnished by the defendants as to dead-weight was intended to contain the whole of the terms of the contract. He decided that he could read into the memorandum such parts of the particulars as were not inconsistent with the memorandum: *Edward Lloyd (Limited)* v. *Sturgeon Falls Pulp Co. (Limited)* (1902, 85 L. T. 162). The statement, therefore, as to the dead-weight capacity was contractual, and it was incorrect. The normal result would be that the defendants would be liable in damages; but the defendants' particulars contained the words "not accountable for errors in description." The authorities are conflicting as to whether such words apply to the breach of a condition, and he had not been able to discover any principle to reconcile them: *Wallis, Son, & Wells* v. *Pratt & Haynes* (1911, A. C. 394) and *Taylor* v. *Bullen* (1850, 5 Ex. 779). He had come to the conclusion that the rule to apply as to whether there is a condition or a collateral warranty is that where the subject-matter of a contract of sale is a specific existing chattel, a statement as to some quality possessed by or attaching to such chattel, is a warranty and not a condition, unless the absence of such quality, or the possession of it to a smaller extent, makes the thing sold different in kind from the thing so described in the contract: *Barr* v. *Gibson* (1838, 3 M. & W. 390); *Varley* v. *Whipp* (1900, 1 Q. B. 513, 48 W. R. 363). The representation in the present case was therefore a collateral warranty, and the effect of the words "not accountable for errors in description" was to prevent the defendants from being liable in damages for the error. Judgment for defendants.—COUNSEL, *Roche*, K.C., and *R. A. Wright*, for the plaintiffs; *Greer*, K.C., and *A. Neilson*, for the defendants. SOLICITORS, *W. A. Crump & Son; Botterell & Roche.*

[Reported by G. H. KNOTT, Barrister-at-Law.]

THE KING v. JUSTICES OF DERBY

Div. Court. 25th July.

HIGHWAY—DIVERSION—NOTICES GIVING THE DATE FOR APPLICATION TO QUARTER SESSIONS—CHANGE OF DATE OF QUARTER SESSIONS—VALIDITY OF NOTICES—JURISDICTION OF JUSTICES—HIGHWAYS ACT, 1835 (5 & 6 WILL. 4, c. 50), s. 85, SCHED., FORM 19.

In the notices given under section 85 of the Highways Act, 1835, of an application at quarter sessions for the diversion of a highway, it was stated that the application would be made at the usual summer quarter sessions to be held on 4th July. The date for holding these sessions was subsequently altered, under section 3 of the Assizes and Quarter Sessions Act, 1908, to fourteen days prior to 4th July.

Held, that, notwithstanding the quarter sessions were held at the earlier date than that given by the notices, the justices had jurisdiction to hear and determine the application, and must do so.

Rule *nisi* for a *mandamus* to the justices to hear and determine. The Corporation of Glossop, as the surveyor of highways of the borough of Glossop, applied to the justices of the county of Derby for an order under section 91 of the Highways Act, 1835, to divert a highway. On 23rd April, 1917, they obtained the certificate of the justices under section 85 of the Highways Act, 1835, stating that they had viewed the said highway, in accordance with the section, and that the proposed diversion was more commodious to the public. Under section 85 the justices, if they grant a certificate, are to direct the surveyor to affix a notice in the form or to the effect of schedule (No. 19) to the Act annexed at the place, and by the side of each end of the said highway from whence the same is proposed to be turned, diverted, or stopped up, and also to insert the same notice in one newspaper published or generally circulated in the county where the highway lies, for four successive weeks next after the justices have viewed the highway, and to affix it for four successive Sundays on the doors of the parish churches. Form No. 19 is as follows: "Notice is hereby given, that on the day of next application will be made to His Majesty's justices of the peace assembled at quarter sessions, in and for the county of , at , for an order, &c., and that the certificate of two justices having viewed the same, &c., with the plan of the old and proposed new highway, will be lodged with the Clerk of the Peace for the said county on the day of next." In the ordinary course the summer quarter sessions of the justices would have been held on 4th July, 1917, and accordingly

the corporation, as soon as the certificate was issued, affixed the notice as required and inserted the advertisement, and they filled up the blank in the notice with the date 4th July, the expected date of the quarter sessions. The assizes for the county of Derby were, however, subsequently fixed for 3rd July, and the justices, in accordance with the Assizes and Quarter Sessions Act, 1908 (8 Ed. 7, c. 41), s. 3, enabling them to alter the date for the quarter sessions by fourteen days earlier or later than they would otherwise be held, altered the date of the summer quarter sessions to 20th June. The corporation made their application for enrolment to the quarter sessions on 20th June, but the justices refused to make an order, on the ground that they had no jurisdiction, as the date in the notices for hearing was 4th July.

Viscount READING, C.J., said: The whole difficulty resolves itself into one question—whether the date mentioned in the public notices is vital to the validity of the notices, and consequently to the exercise of jurisdiction by the justices. It is not surprising that the justices felt some difficulty, as the Courts have always held that in proceedings under this section 85 of the Highways Act, 1835, scrupulous care must be taken to safeguard the rights of the public. The question here is whether this is one of those cases where the exact wording of the statute must be followed, and whether the quarter sessions in fact held on 20th June were not the same as those named in the notices as 4th July. It seems on examination that there is no substance in the point taken to oust the jurisdiction, and no reason why we should take an extremely technical view of the language of the statute. Section 118 provides that the forms of proceedings in the schedule shall be used with such variations as may be necessary to adapt them to the particular exigencies of the case, "and no objection shall be made or advantage taken for want of form in any such proceedings by any person whomsoever." This means substantially that the particulars required by the statute must be given, but not necessarily in the exact language of the forms, so long as the object of the statute is complied with. Here it was unnecessary to state the date for the application so long as there was an indication of the quarter sessions at which the application would be made. It would be better if the justices in their form of notice followed the language of the Assizes and Quarter Sessions Act, 1908, to the effect that the application would be made at the ordinary date of the sessions, or at those to be held fourteen days earlier or later as the case might be. The rule should be made absolute, but without costs against the justices.

RIDLEY and ATKIN, JJ., agreed, and delivered judgments to the same effect.—COUNSEL, *Maddocks*, shewed cause against the rule; *Disturnal*, K.C., and *C. A. McCurdy*, in support of the rule. SOLICITORS, *T. W. Ellison*, Glossop; *Kingsford, Dorman, & Co.*, for *J. Hughes-Hallett*, Derby.

[Reported by G. H. KNOTT, Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

In the Estate of **MAJOR L. S. T. TOLLEMACHE (Deceased).**
Horridge, J. 9th July.

WILL—SOLDIER'S WILL—NO POWER TO APPOINT A GUARDIAN—12 CAR. 2, C. 24, S. 8—1 VICT. C. 26, SS. 1 AND 11.

Under a soldier's will the testator has no power to appoint a guardian of his children.

This was a motion arising out of the testamentary dispositions of the late Major L. S. T. Tollemache, who died in France on 20th February, 1917, from wounds received in action. The deceased executed a will on 12th March, 1915, in accordance with the provisions of the Wills Act, 1837, whereby he appointed Mr. George Henry Mills, barrister, executor and trustee. On 7th February, 1917, the deceased wrote out a memorandum of his wishes, which he duly signed. That document ran as follows:—"Grand Hotel du Rhin, Amiens. 7th February, 1917. In case anything should happen to me (either resulting in death or total incapacity), I wish my son Denys to be put in charge of my second sister (Mrs. F. A. Cooper), or, in case of her death, my youngest sister (Mrs. A. P. Oppe). This cancels my previous instructions handed to Mr. Mackay. I wish the trustees to give up to full amount of total yearly income to either of above-mentioned who may have charge of my son until such time as he comes of age; this to enable them to carry out their (which will be mine) wishes without reference. Both these sisters thoroughly understand how I wish my son to be brought up, and I wish them to be given every help that the trustees can give.—L. S. Tollemache, The Leicestershire Regt." Counsel for the executor of the will submitted that the document of 7th February, 1917, was not a valid soldier's will under the Wills Act, 1837, s. 11, as there was no disposition by the deceased of his personal estate, and also that under 12 Car. 2, c. 24, s. 8, and under the Wills Act, 1837, a valid appointment of a guardian could not be made under a soldier's will. He cited and discussed *The Earl of Ilchester's case* (7 Ves. 370) and *In the Goods of Morton* (3 Sw. & T. 432; 33 L. J. (P.) 87). Counsel for the sisters of deceased submitted that the whole document should be admitted to probate. The first part of the document was the expression of a pious wish on the part of the deceased; and also under the Wills Act, 1837, s. 1, the word "rights" might entitle a soldier to appoint a guardian under a soldier's will. The latter part of the document was clearly a disposition of his personal estate, and being duly signed by him was undoubtedly a valid soldier's will made on active service.

HORRIDGE, J., in the course of his judgment, said: The first part of the document of 2nd February, 1917, is an expression of a wish that Major Tollemache's son should be placed in charge of one sister, and in case of death in charge of another sister. I think that that is not an appointment of a guardian, but the expression of a wish. [The learned Judge then cited the Act of Charles 2, c. 24, s. 8, and *The Earl of Ilchester's case* (*supra*), and continued:] Prior to the Act of Charles 2 there was no power to appoint a guardian by testamentary disposition. Section 22 of that Act gives no such right under a soldier's will. Also under the Wills Act, 1837, the word "rights" in section 1 I think clearly does not extend to the right of appointing a guardian under a soldier's will. The question now remains as to the latter part of the document, whether it is a disposition of personal estate. The question is a difficult one. I have not got to decide the effect of the document. That is for a court of construction. I think that, on the face of it, it purports to be a disposition of personal estate, and there is a direction (good or bad) to trustees how to deal with the estate. The whole document must, I think, be admitted to probate without deciding whether the disposition is a valid one or not. I pronounce for the will of 12th March, 1915, and the document of 7th February, 1917, costs out of the estate.—COUNSEL, *Hughes*, K.C., and *W. O. Willis*, for the executor of the will; *Cotes-Preedy*, for the two sisters named in the document of 7th February, 1917. SOLICITORS, *Iliffe, Henley, & Sweet; Julius Bertram.*

[Reported by C. G. TALBOT-PONSONBY, Barrister-at-Law.]

New Orders, &c.

War Orders and Proclamations, &c.

The *London Gazette* of 10th August contains the following:—

1. An Order in Council, dated 8th August (printed below), making new Defence of the Realm Regulations.

2. An Order in Council, dated 10th August, amending the Proclamation, dated the 13th day of March, 1917, and made under Section 1 of the Exportation of Arms Act, 1900, as amended by Section 1 of the Customs (Exportation Restriction) Act, 1914, whereby the exportation from the United Kingdom of certain articles and any articles composed wholly or partially of those articles was prohibited to any destination in Switzerland.

3. A Foreign Office (Foreign Trade Dept.) Notice, dated 10th August, 1917, that certain additions or corrections have been made to the list published as a supplement to the *London Gazette* of 18th May, 1917, of persons to whom articles to be exported to China may be consigned.

4. A Notice that Orders have been made by the Board of Trade, under the Trading with the Enemy Amendment Act, 1916, requiring four more businesses to be wound up, bringing the total to 485.

5. A Notice that the following Orders have been made by the Food Controller:—

The Sea Fishing (England and Wales) Order, 30th July, 1917 (*ante*, p. 679).

The Fisheries (Ireland) Order, 30th July, 1917.

6. An Admiralty Notice to Mariners, dated 2nd August, No. 797 of the year 1917, relating to Shetland Isles:—Port of Lerwick and Approaches—Traffic Regulations.

The *London Gazette* of 14th August contains the following:—

7. An Order in Council, dated 14th August, amending the Proclamation, dated the 10th day of May, 1917, and made under Section 8 of the Customs and Inland Revenue Act, 1879, and Section 1 of the Exportation of Arms Act, 1900, and Section 1 of the Customs (Exportation Prohibition) Act, 1914, whereby the exportation from the United Kingdom of certain articles to certain or all destinations was prohibited.

8. A Notice that an Order has been made by the Board of Trade, under the Trading with the Enemy Amendment Act, 1916, requiring another business to be wound up, bringing the total to 486.

9. The Household Coal Distribution Order, 1917, dated 10th August, 1917, made by the Board of Trade, under Regulations 2*r* to 2*t* of the Defence of the Realm Regulations. The Order is very long, and fills eight pages of the *Gazette*.

10. The Local Authorities (Household Distribution) Order, 1917, dated 10th August (printed below), made by the Local Government Board, under Regulations 2*r* and 2*tt* of the Defence of the Realm Regulations.

11. A Notice that the following Orders have been made by the Food Controller:—

The Flour Mills Order, No. 2, 31st July, 1917 (printed below).

The Pickled Herring (Returns) Order, 31st July, 1917 (printed below).

The Winter Beans Order, 27th July, 1917 (printed below).

The Milk (Returns) Order, 31st July, 1917 (printed below).

We also print below the following Orders:—

The Winter Oats and Rye (Restriction) Order, 1917, dated 12th August, 1917.

The Grain (Prices) Order, 1917, dated 14th August, 1917.

The Barley (Restriction) Order, 1917, dated 15th August, 1917.

New Defence of the Realm Regulations.

ORDER IN COUNCIL.

[Recitals.]

It is hereby ordered, that the following amendments be made in the said Defence of the Realm Regulations:—

Maintenance of Food Supply.

1. In sub-section (1) of Regulation 2F, for the words "including orders as to maximum and minimum price" there shall be substituted the words "including orders providing for the fixing of maximum and minimum prices."

2. At the end of Regulation 2G the following sub-section shall be inserted:—

"(5) If in any case the Food Controller is of opinion that it is necessary or expedient to obtain information from any person in connection with any article as to all or any of the matters with respect to which returns may be required under sub-section (1) of this regulation, the Food Controller shall have power, without making an order for the purpose, to require that person to furnish him with that information; and any person who is so required to furnish information shall furnish it accordingly.

"In such a case, all the foregoing provisions of this regulation shall apply to information so given and the giving of such information as they apply to returns made and the making of returns."

Powers of Board of Trade.

3. Regulation 2JJ shall be amended as follows:—

(1) For the words "to which the powers of the Food Controller under those regulations do not extend" there shall be substituted the words "not being an article of food."

(2) For the words "encouraging or maintaining" there shall be substituted the words "encouraging, maintaining or regulating."

Restriction on Entry into Shipbuilding Yard.

4. In Regulation 29C [*ante* p. 595] for the words "State at war with His Majesty" there shall be substituted the words "State now at war with His Majesty."

Burial of Enemies.

5. After Regulation 35B the following Regulation shall be inserted:

"35BB. It shall be lawful for the Admiralty or Army Council to give such directions as they may think proper, either generally or on a particular occasion, as to the burial of the bodies of enemies killed in the course of hostile operations and no inquest shall be held on any body to which directions so given relate."

Returns of Employees.

6. For Regulation 41AA the following Regulation shall be substituted:

"41AA. (1) Where a workman who holds, in consequence of his occupation, a certificate issued by a Munitions Recruiting Officer, to the effect that he is not for the time being to be called up for military service, ceases to be employed by a person in Great Britain that person shall, within forty-eight hours after such workman ceases to be employed by him, deliver at or send by registered post to the Munitions Area Recruiting Office from which the workman's certificate was issued or such other address as may be prescribed, a notice signed by him or on his behalf stating the workman's full names, his last known address, the number of his certificate and the date when he ceased to be so employed.

"(2) Where any person in Great Britain takes any such workman as aforesaid into his employment he shall within forty-eight hours thereafter deliver at or send by registered post to the Munitions Area Recruiting Office for the area in which the workman is so taken into employment or such other address as may be prescribed, a notice signed by him or on his behalf stating the workman's full names, his present address, the number of his certificate, the name of the Munitions Area Recruiting Office from which that certificate was issued and the date when the employment commenced.

"(3) Where whilst any such workman as aforesaid remains in the employment of any person in Great Britain his place of employment is changed from one munitions area to another the person by whom he is employed shall within forty-eight hours after the change deliver at or send by registered post to—

(*a*) the Munitions Area Recruiting Office from which the workman's certificate was issued or such other address as may be prescribed; and

(*b*) the Munitions Area Recruiting Office for the area to which the workman's place of employment is changed or such other address as may be prescribed;

a notice signed by him or on his behalf stating the workman's full names, his present address, the number of his certificate, the office from which that certificate was issued and the date of the change of place of employment.

"(4) It shall be the duty of every such workman as aforesaid when required, to furnish to his present or last employer such information as may be necessary to enable such employer to comply with the requirements of this regulation.

"(5) The Army Council may by general or special order exempt any person or class of persons from all or any of the obligations imposed by this regulation and prescribe the addresses to which notices under this regulation are to be delivered or sent.

"(6) If any person fails to comply with any of the requirements of this regulation or gives in or for the purposes of any such notice as aforesaid any false or misleading information he shall be guilty of a summary offence against these regulations."

Offences.

7. In Regulation 46 after the words "Any person who attempts to commit" there shall be inserted the words "or solicits or incites or endeavours to persuade another person to commit."

10th August.

Distribution of Coal.

THE LOCAL AUTHORITIES (HOUSEHOLD COAL DISTRIBUTION) ORDER, 1917.

To the Mayor, Aldermen, and Commons of the City of London, in Common Council assembled:—

To the Councils of the several Metropolitan Boroughs;—

To the Councils of the several Municipal Boroughs or other Urban Districts and Rural Districts wholly or in part within the Metropolitan Police District;—

And to all others whom it may concern.

Whereas by Regulations numbered 2J and 2JJ of the Defence of the Realm Regulations, We, the Local Government Board, may, by arrangement with the Board of Trade, confer and impose on any local authorities and their officers any powers and duties necessary to enable them to provide for the due discharge of any functions assigned to local authorities by certain orders made by the Board of Trade under the Defence of the Realm Regulations;

And whereas the Board of Trade have in pursuance of the said Regulation numbered 2JJ made the Household Coal Distribution Order, 1917:

Now therefore, in pursuance of Our powers in that behalf, and by arrangement with the Board of Trade, We hereby Order as follows:—

ARTICLE I.—In these Regulations, unless the contrary intention appears:—

(*a*) The expression "Local Authority" means, as the case may be, the Mayor, Aldermen and Commons of the City of London in Common Council assembled, the Council of a Metropolitan Borough, the Council of a Municipal Borough or other Urban District, or the Council of a Rural District.

(*b*) The "District" of the Local Authority means, as the case may be, the District subject to the jurisdiction of the Local Authority for the purposes of the Public Health (London) Act, 1891, or of the Public Health Act, 1875, so far as the same is situated within the Metropolitan Police District, or any District or part of a District outside the Metropolitan Police District to which the Household Coal Distribution Order, 1917, applies or may be extended.

ARTICLE II.—We hereby confer and impose upon the Local Authority and upon such of their officers as they may designate or appoint for the purpose the powers and duties necessary to provide for the due discharge of the functions assigned to Local Authorities by the Household Coal Distribution Order, 1917, within their District, in conformity with the Defence of the Realm Regulations.

ARTICLE III.—Any expenses incurred by a Local Authority in the execution of this Order shall be defrayed in like manner as if the expenses had been incurred in the execution of the Public Health Act, 1875, or the Public Health (London) Act, 1891, as the case may be.

ARTICLE IV.—This Order may be cited as "The Local Authorities (Household Coal Distribution) Order, 1917."

Given under the Seal of Office of the Local Government Board, this Tenth day of August, in the year One thousand nine hundred and seventeen.

W. HAYES FISHER, President.
H. C. MONRO, Secretary.

Food Control Orders.

THE FLOUR MILLS ORDER No. 2, 1917.

In exercise, &c., the Food Controller hereby orders as follows:—

1. *Regulation 2GG applied to certain mills.*]—The provisions of Regulation 2GG of the Defence of the Realm Regulations are hereby applied as from the close of business on the 11th August, 1917:—

(*a*) To every Flour Mill in the United Kingdom, which uses any wheat in the making of flour or meal (hereinafter referred to as a flour mill) except a mill to which the Flour Mills Order, 1917, applies; and

(*b*) to every provender and grist mill connected with any flour mill as part of the same establishment.

2. *Particulars to be given completed in respect of all mills.*]—Every person having the management or control of a Flour Mill shall before the 7th August, 1917, forward to the Food Controller, Grosvenor House, London, W. 1, particulars of the name or names of the proprietor or proprietors and postal address of the mill and the hourly and weekly output capacity of the mill for the production of flour.

3. *Wheat to be ground only at certain mills.*]—From and after the 11th August, 1917, no person shall grind wheat except at a mill in respect of which the particulars required by the foregoing clause have been furnished.

4. *Records and Returns.*]—(i.) Every person having the control or management of a flour mill shall keep such records relating to grain received, held and used, and relating to the operations of the mill as the Food Controller may from time to time direct, and shall make such returns relating to the operations of the mill as the Food Controller may from time to time require.

(ii.) All records and documents kept in accordance with this clause shall upon any request in that behalf be produced to and open to the inspection of any person authorized by the Food Controller.

5. *Infringements.*]—If a person refuse or neglect to make a return or makes or causes to be made a false return, or otherwise infringes the provisions of this Order, he is guilty of a summary offence against the Defence of the Realm Regulations.

6. *Title.*]—This Order may be cited as the Flour Mills Order No. 2, 1917.

By order of the Food Controller,
U. F. WINTOUR,
Secretary to the Ministry of Food.

31st July.

THE PICKLED HERRING (RETURNS) ORDER, 1917.

In exercise, &c., the Food Controller hereby orders as follows:—

1 *Particulars required.*]—Every person owning or having power to sell or dispose of any pickled herrings of the kinds mentioned in the Schedule which were cured on or after the 1st May, 1917, shall, on or before the 14th day of each month, beginning with the month of August, 1917, furnish to the Food Controller a return giving:—

(*a*) particulars of all such herrings in his possession or under his control on the last day of the month immediately preceding that in which the return falls to be made;

(*b*) particulars of all such herrings sold or disposed of by him during that month, and

(*c*) such other particulars as may be required to complete the prescribed form of return.

2. *Forms.*]—The returns shall be made on forms prescribed by the Food Controller, and to be obtained from and when completed to be returned to, the Secretary, Cured Fish Committee, Grosvenor House, London, W. 1.

3. *Exceptions.*]—A person who does not own or have power to sell or dispose of more than 25 barrels of such herrings at the end of any month shall not be required to make a return in respect of that month.

4. *Penalties.*]—Infringements of this Order are summary offences against the Defence of the Realm Regulations.

5. *Title.*]—This Order may be cited as the Pickled Herring (Returns) Order, 1917.

By Order of the Food Controller,
U. F. WINTOUR,
Secretary to the Ministry of Food.

[Schedule of kinds of Herrings.]

31st July.

THE WINTER BEANS ORDER, 1917.

In exercise, &c., the Food Controller hereby orders that except under the authority of the Food Controller the following provisions shall be observed by all persons concerned:—

1. *Winter Beans to be used as Seed only.*]—A person shall not before 1st December, 1917, use any winter-sown Winter Beans grown in the United Kingdom in the year 1917 (hereinafter called Winter Beans) for any purpose other than Seed.

2. *Purchases.*]—A person shall not before 1st December, 1917, buy or otherwise acquire any Winter Beans unless either he, being a person who ordinarily deals in Winter Beans for seed purposes acquires them with a view to re-sale for such purpose, or he requires Winter Beans for the purpose of seed; and unless, in either case, he gives to the person from whom he acquires the Winter Beans a certificate stating the purpose for which such Beans are required.

3. *Sales.*]—A person shall not before 1st December, 1917, sell or otherwise dispose of any Winter Beans to any person except to a person who ordinarily deals in Winter Beans for seed, or to a person who is reasonably believed to require such Beans for the purpose of seed, and who, in either case, gives such a certificate as is referred to in the preceding clause.

4. *Certificates.*]—Every Certificate given under this Order shall contain the name and address of the person giving such Certificate and shall be retained by the person to whom it is given. All such Certificates shall at all times be open to the inspection of any person authorized by the Food Controller or by a Local Authority empowered to enforce this Order or as respects England and Wales by the Board of Agriculture and Fisheries, or as respects Scotland by the Board of Agriculture for Scotland.

5. *Infringements.*]—Infringements of this Order are summary offences against the Defence of the Realm Regulations.

6. *Title and extent of Order.*]—(*a*) This Order may be cited as Winter Beans Order, 1917.

(*b*) Nothing in this Order shall affect the use of any Winter Beans in Ireland or any transaction taking place in Ireland.

By Order of the Food Controller,
U. F. WINTOUR,
Secretary to the Ministry of Food.

27th July.

Memorandum (see p. 529, *ante*) that the Local Authorities (Food Control) Order (No. 1), 1917, is to apply to the above Order.

THE MILK (RETURNS) ORDER.

In exercise, &c., the Food Controller hereby orders as follows:—

(1) All persons engaged in the production, purchase, sale, distribution, transport, storage of any milk, shall furnish particulars as to their businesses as may from time to time be specified by or on behalf of the Food Controller, and shall verify the same in such manner as he may direct.

(2) Infringements of this Order are summary offences against the Defence of the Realm Regulations.

(3) This Order may be cited as the Milk (Returns) Order, 1917.

By Order of the Food Controller,
U. F. WINTOUR,
Secretary to the Ministry of Food.

31st July.

THE WINTER OATS AND RYE (RESTRICTION) ORDER, 1917.

In exercise, &c., the Food Controller hereby orders as follows:—

1. *Winter Oats and Rye to be used as seed only.*]—Except under the authority of the Food Controller, no person shall before 1st November, 1917, use any Winter-sown Winter Oats (hereinafter called Winter Oats) grown in the United Kingdom in the year 1917, or before 1st January, 1918, use any Rye so grown for any purpose other than seed.

2. *Purchases.*]—So long as the restrictions imposed by Clause 1 are in force, no person shall buy or otherwise acquire any Winter Oats or Rye unless either he being a person who ordinarily deals therein for seed purposes acquires them with a view to resale, or he requires them for the purpose of seed.

3. *Sales.*]—So long as the restrictions imposed by Clause 1 are in force no person shall sell or otherwise dispose of any Winter Oats or Rye except to a person who ordinarily deals therein for seed or to a person who is reasonably believed to require them for the purpose of seed.

4. *Infringements.*]—(*a*) Infringements of this Order are summary offences against the Defence of the Realm Regulations.

(*b*) Nothing in this Order shall affect the use of any Winter Oats in Scotland or in Ireland or any transaction affecting Winter Oats taking place in Scotland or Ireland.

By Order of the Food Controller.
U. F. WINTOUR,
Secretary to the Ministry of Food.

14th August.

THE GRAIN (PRICES) ORDER, 1917.

In exercise, &c., the Food Controller hereby orders that, except under the authority of the Food Controller, the following regulations shall be observed by all persons concerned:—

1. *Maximum Price.*]—No Wheat, Rye, Oats or Barley harvested in the United Kingdom in the year 1917, may be sold at prices exceeding the maximum prices applicable according to the provisions of this Order.

2. *Table of Maximum Prices.*]—(*a*) The maximum price applicable on any transaction shall, subject as hereinafter provided, be a price at the rate specified in the following table:—

Agreed date of delivery of Grain sold.	Wheat and Rye. Rate per quarter of 504 lb.	Oats. Rate per quarter of 336 lb.	Barley. Rate per quarter of 448 lb.
	s. *d.*	*s.* *d.*	*s.* *d.*
Where delivery is to be made before the 1st December, 1917, the price shall not exceed	73 6	44 3	62 9
Where delivery is to be made in the month of December, 1917, or January, 1918, the price shall not exceed ...	74 6	45 3	62 9
Where delivery is to be made in the month of February or March, 1918, the price shall not exceed	75 6	46 3	62 9
Where delivery is to be made in the month of April or May, 1918, the price shall not exceed	76 9	47 3	62 9
Where delivery is to be made on or after the 1st June, 1918, the price shall not exceed ...	77 9	48 6	62 9

(*b*) The rate per quarter applicable for delivery during any period according to the foregoing table is hereinafter called the standard rate.

3. *Maximum Price for Oats sold, for Oatmeal and Barley sold to Licensed Buyers.*]—(*a*) Where Oats suitable for the manufacture of Oatmeal, rolled Oats or flaked Oats for human consumption are bought by an Oatmeal Miller specifically for the purpose of such manufacture, or by a recognised dealer specifically buying for re-sale for such manufacture, the maximum price shall be ascertained by adding 3s. per quarter to the standard rate.

(*b*) Where barley is bought by a person requiring and holding a License from the Food Controller, granted for the purpose of entitling him to use Barley for a manufacturing business carried on by him or by a recognised dealer specifically buying for re-sale to such a person, the maximum price shall be ascertained by adding 5s. 3d. per quarter to the standard rate.

4. *Maximum Prices for damaged Grain.*]—(*a*) In the case of Wheat and Rye so damaged as to be unfit for milling, and Wheat and Rye tailings and dressings, the maximum price shall be ascertained by deducting 7s. per quarter from the standard rate.

(*b*) In the case of Barley so damaged as to be unfit for milling and Barley tailings and dressings, the maximum price shall be ascertained by deducting 7s. 9d. per quarter from the standard rate.

(*c*) In the case of Oats improperly cleaned or containing an undue quantity of soil, and Oat tailings and dressings, the maximum price shall be ascertained by deducting 5s. per quarter from the standard rate.

5. *Permissible additions on purchases from recognized dealers.*]—On the occasion of the purchase of any of the grains mentioned from any person who is a recognized dealer in grain, and who is not the producer of the Grain sold, the following provisions shall have effect:—

(*i.*) Where the purchase is made by a Flour Miller buying for the purpose of his Mill the maximum price shall be ascertained by adding 1s. per quarter to the price otherwise applicable according to the foregoing provisions of this Order.

(ii.) Where a purchase is made otherwise than by a Flour Miller buying for the purpose of his Mill the maximum price shall be ascertained by adding 2s. per quarter to the price otherwise applicable according to the foregoing provisions of this Order, provided that where the total quantity of a particular kind of Grain purchased by one buyer from one seller does not in any period of seven consecutive days, including the day of sale, exceed 15 sacks, the maximum price in respect of each quarter so purchased shall be ascertained by adding 4s. per quarter to the prices otherwise applicable according to the foregoing provision of this Order, and where such total quantity does not in that period amount to one sack, the maximum price in respect of each quarter so purchased shall be ascertained by adding 8s. per quarter to the price otherwise applicable according to the foregoing provisions of this Order.

6. *Terms of Trading.*]—(*a*) The maximum prices under this Order are fixed on the basis of the following terms and conditions being applicable to the transaction:—

(i.) Payment to be net cash within seven days of completion of delivery, and monies then unpaid thereafter to carry interest not exceeding the rate of 5 per cent. per annum, or Bank Rate, whichever be the higher.

(ii.) Delivery of Grain by producer to be free on rail, barge, or to Mill or Store, in accordance with the usual custom of the district.

(iii.) Freight, haulage, porterage, and cartage from the point where delivery has been or is to be made by the producer to be for the Buyer's account.

(iv.) All sack hire up to and including the time of delivery to rail, barge, mill, or store by producer to be for the producer's account, and all charges for sacks subsequent thereto to be for buyer's account.

(*b*) Where the grain is sold on terms or conditions other than the terms and conditions stated in the foregoing part of this clause, a corresponding adjustment shall be made in the maximum price, and for this purpose the cost of delivery for which the producer is liable under the above terms shall be reckoned at the rate of 6d. per ton per mile.

7. *Treatment of Grain.*]—If the buyer of any Home Grain sold should require the Grain bought to be mechanically treated, the cost of such treatment shall be the subject of a separate agreement, and shall not be made a condition of the sale.

8. *Offer and conditions.*]—No person shall sell or buy, or offer to sell or buy, any of the Grain mentioned at a price exceeding the price applicable under this Order, or in connection with a sale or disposition or proposed sale or disposition of any such Grain enter or offer to enter into a fictitious or artificial transaction or make any unreasonable charge.

9. *Seed.*]—None of the foregoing provisions of this Order shall apply to any Grain which is suitable for seed, and which is also sold specifically for the purpose of seed, and no grain so sold shall be used for any other purpose.

10. *Sales to be by weight.*]—No person shall, after the 31st August, 1917, sell any Wheat, Rye, Oats, or Barley, whether imported or home grown, otherwise than by weight.

11. *Grain not to be torrefied or bleached.*]—No person shall, after the 31st August, 1917, torrefy or bleach any Wheat, Rye, Oats, or Barley, whether imported or home grown.

12. *Sales to Flour Millers.*]—Where any grain is sold to a Flour Miller such grain shall be deemed to be sold to him for the purpose of his Mill until the contrary be proved.

13. *Interpretation.*]—For the purpose of this Order

"quarter" shall mean, in relation to Wheat and Rye, a weight of 504 lb., and in relation to Oats, a weight of 336 lb., and in relation to Barley, a weight of 448 lb.;

"sack" shall mean half a quarter;

"recognised dealer" shall mean a person who, in the ordinary way of his business, deals in Grain for the purpose of his livelihood.

14. *Penalty.*]—Infringements of this Order are summary offences against the Defence of the Realm Regulations.

15. *Revocation.*]—From and after the date of this Order the 1917 Crop (Restriction) Order, 1917, shall cease to be in force, except as regards potatoes, but without prejudice to any proceedings in respect of any contravention thereof.

16. *Title.*]—This Order may be cited as the Grain (Prices) Order, 1917.

By Order of the Food Controller,

U. F. WINTOUR,

Secretary to the Ministry of Food.

14th August.

THE BARLEY (RESTRICTION) ORDER, 1917.

In exercise, &c., the Food Controller hereby orders that except under the authority of the Food Controller the following regulations shall be observed by all persons concerned:—

1. *Use of Barley.*]—(*a*) No person shall on or after the 1st September use any Barley except for the purpose of seed or except in the process of manufacturing flour.

(*b*) This clause shall not apply to tailings or screenings or barley which has been so damaged as to be unfit for milling.

2. *Use of Barley Flour and articles containing Barley Flour.*]—(*a*) No person shall on or after the 1st September use any Barley Flour, except in the manufacture of articles suitable for human food or use any article containing Barley Flour except as human food.

(*b*) This clause shall not apply to Barley Flour which on the 1st September, 1917, has been so treated as to be unsuitable for the purpose of human food, or to any Barley Flour or any article containing Barley Flour which is or may become unfit for such purpose.

3. *Damaging Barley.*]—No person shall damage or permit to be damaged on or after the 1st September, 1917, treat or permit to be treated any Barley or Barley Flour or any article containing Barley Flour so as to render the same less fit for the purpose for which under this Order it is reserved.

4. *Samples.*]—Any person authorised by the Food Controller and any Local Authority empowered to enforce the provisions of this Order, may take samples of any Barley or Barley Flour, or other article which he has reason to suspect is being used, treated or damaged in contravention of this Order.

5. *Determination of certain questions.*—If any question shall arise whether any Barley is so damaged as to be unfit for milling or whether any Barley Flour or article containing Barley Flour is unfit for the purpose of human food such question may be referred to and determined by any person authorised in that behalf by the Food Controller or in England and Wales and Scotland by a Local Authority empowered to enforce this Order as to Barley or Barley Flour or any such article within the district of such Local Authority.

6. *Infringements.*]—Infringements of this Order are summary offences against the Defence of the Realm Regulations.

7. *Revocation.*]—After the 31st August, 1917, the Maize, Barley and Oats (Restriction) Order, 1917, shall cease to be in force as far as the same relates to Barley but without prejudice to any proceedings in respect of any previous contravention thereof.

8. *Title.*]—This Order may be cited as the Barley (Restriction) Order, 1917.

By Order of the Food Controller.
U. F. WINTOUR,
Secretary to the Ministry of Food.

15th August.

FOOD COMMISSIONERS.

Lord Rhondda has appointed the following to be Food Commissioners:—

For the City of London and metropolitan boroughs, Mr. H. J. Greenwood.

For the Southern Home Counties, with headquarters in London, Mr. F. E. Blackburne-Hall.

For Yorkshire, with headquarters at Leeds, Mr. J. A. Greene.

For North Wales, with headquarters at Carnarvon, Mr. J. R. Hughes.

For the Eastern Counties of Scotland, with headquarters at Edinburgh, Lt.-Col. H. A. Rose, D.S.O.

For the Western Counties of Scotland, with headquarters at Glasgow, the Hon. Gideon Murray.

The first duties of the Food Commissioners will be to act as the representative of the Ministry of Food in their respective divisions for the purpose of supervising the execution of the Food Controller's instructions. They will be responsible for assisting the local Food Control Committees in the performance of their work and for keeping the committees in touch with one another and with the Ministry of Food. Further appointments will be announced in due course.

9th August.

SUPERVISING ACCOUNTANTS.

It is also announced that, in order to enable the work which will be involved in the investigation of the costs of food production and distribution to be effectively carried out, leading firms of accountants in all parts of the United Kingdom have been invited by the Food Controller to act in an honorary capacity as supervising accountants for their districts under the immediate direction of Mr. W. H. Peat, who has been appointed Financial Secretary of the Ministry of Food, and a list of the firms who have signified their willingness to act as district supervising accountants, and the districts covered by them, has been published.

Whistling for Cabs.

The Home Secretary, in virtue of the power conferred on him by Regulation 12D of the Defence of the Realm Regulations, has made an order prohibiting whistling or the making of any other loud noise for the purpose of summoning cabs at any hour within the Administrative County of London. The Order will take effect as from 20th August, 1917.

Munitions Factory Valuation.

The Ministry of Munitions states that, in dealing with the question of values of plant, buildings, and machinery erected or installed in controlled establishments for munitions work, the Board of Inland Revenue have made arrangements to retain the honorary services of the Valuation Advisory Committee of experts, formed by the late Mr. Howard Chatfeild Clarke, and consisting of:—

Mr. Basil Mott, Member of the Council of the Institute of Civil Engineers; Captain H. Riall Sankey, C.B., R.E., Member of the Council of the Institution of Civil Engineers and Member of the Council of the Institution of Mechanical Engineers; Lieutenant-Colonel C. L. Morgan, Member of the Council of the Institution of Civil Engineers and late chief engineer, and now a director, of the London, Brighton and South Coast Railway Company; Mr. Leslie R. Vigers, past president of the Surveyors' Institution; Mr. H. M. Jones, F.S.I., Receiver of Crown Lands; and Mr. George Head, F.S.I., past president of the Auctioneers' and Estate Agents' Institute. They have, for the past eighteen months, been almost daily occupied in visiting controlled establishments in various munition areas, and advising the Ministry of Munitions on extensions therein.

Army Act.

War Office,
14th August, 1917.

It is proposed to amend the "Rules of Procedure," under Section 70 of the Army Act.

Copies of the amendments may be seen at the War Office, Whitehall.

Societies.

Barristers and the War.

The list of barristers serving in His Majesty's forces, compiled by the General Council of the Bar, has now been revised up to 31st July, 1917, and may be obtained gratis on application to the Secretary, 2, Hare-court, Temple, E.C.

Belgian Lawyers Relief Fund.

The following further donations are gratefully acknowledged:—

	£	s.	d.
Amount previously notified	796	12	0
Sir A. Norman Hill (*second donation*)	50	0	0
An American Friend, per S. L. W. (*second donation*)	10	0	0
S. Garrett, Esq. (*third donation*)	5	5	0
Messrs. Mawby, Mawby & Morris (*third donation*)	5	5	0
Bt. Lieut.-Colonel O'Meara, C.M.G.	3	3	0
E. R. Cook, Esq.	3	3	0
Frank Mellor, Esq. (*second donation*)	2	2	0
Messrs. Keen, Rogers & Co.	2	2	0
Frank T. Sykes, Esq. (*second donation*)	2	2	0
F. W. Coope, Esq.	2	2	0
R. Winder, Esq. (*second donation*)	2	2	0
C. M. G. Mitchell, Esq. (*third donation*)	2	0	0
Wm. Bagshaw, Esq. (*second donation*)	1	1	0
Geo. H. Abrahams, Esq.	1	1	0
John Lambe, Esq.	1	1	0
Henry J. Nicholson, Esq. (*second donation*) ...	1	1	0
F. Sturge, Esq. (*second donation*)	1	0	0
Leonard N. Blake, Esq. (*second donation*)	0	10	6
	£891	12	6

Juvenile Crime.

At the Oxford Summer Meeting of extension and other students, on Saturday, the 11th inst., says the *Times*, Mr. Cecil Chapman, the metropolitan police magistrate, delivered an address on "The Problem of Juvenile Delinquency." He said that the increase of crime among children since the war had startled the world into feverish anxiety about the whole problem of juvenile delinquency. To some extent the public conscience had been dulled into complaisance by the passing of the Children Act, 1908, and the Probation of Offenders Act, 1907. The awakening came from the disclosures of the Home Office Committee in May, 1916, and the annual report of the Howard Association for the same year.

In seeking for the causes of this increased trouble the Manchester Conference came to the conclusion that the blame should be fastened on the adults rather than the children for their general neglect and mismanagement, which had been emphasized and enhanced by the war. Many people attributed the evil to the absence of the fathers, but they might correct their impression by the discovery that in neutral countries there was a similar complaint of criminality among children in spite of the presence of their fathers. The absence of the elder brothers at the war was as important, because they were a great help to mothers

in keeping the children in order. There was also the absence of school teachers, club leaders, and scout masters, the closing of many schools which had been turned into hospitals, and the shutting up of public parks because park-keepers were scarce or for economy.

Another cause was the artificial darkness in the streets, which had led to an increase of 50 per cent. of the crime. Other causes perhaps not so direct were the greater occupation of mothers, the increase in the wages the children were earning, cinematograph shows in which mischievous scenes were depicted, and the general excitement and demoralization due to war talk and war conditions, both among adults and children. He thought that the majority of these offences were remediable.

Children were calling for light; they wanted to escape from the dullness and monotony of family life. Very much could be done to change the lives of persons without a revolution. There were the prefect system and the use of games; greater use should be made of the Boy Scouts and Girl Guides movements; children should not be kept from school in order to earn wages; the continuation schools must be increased both in number and the period at which they should be attended. He thought some blame should be attached to the parents for not associating themselves more closely with the school in which their children were educated. They did not realize half enough the extent that juvenile delinquencies were due to physical or psychical deficiencies, which should be looked after by doctors and nurses rather than by policemen.

Obituary.

Qui ante diem periit,
Sed miles, sed pro patria.

Major Gerald F. W. Powell.

Major GERALD FREDERICK WATSON POWELL, Cyclist Battalion attached Royal West Kent Regiment, was the second son of Mr. Charles W. Powell, D.L., J.P., and Mrs. Powell, of Manor House, Speldhurst, near Tunbridge Wells. He was educated at the Grange Crowborough, and at St. Wilfrid's, Bexhill, whence he went to Harrow, where he was in the headmaster's house, and was house captain of cricket. On leaving Harrow he went to Magdalen College, Oxford, where he took the B.A. degree. He then entered the Inner Temple, and began to pass the examinations for the Bar. He held a commission in the Kent Cyclist Battalion and had just been promoted captain when war broke out. He exchanged into another battalion and was sent to the front on 2nd May of this year, being promoted to the rank of major as from 13th March. He was killed in a trench attack. He was a prominent golfer and a member of the Kent Band of Brothers and Blue Mantles Cricket Clubs. His elder brother, Private Charles Baden Drury Powell, of the Middlesex Regiment, was killed in action on 13th August, 1916.

Legal News.

Appointments.

Mr. JAMES HERBERT BAKEWELL, barrister-at-law, and Mr. WILLIAM WATKIN PHILLIPS, Indian Civil Service, have been appointed to be judges of the High Court of Judicature at Madras. Mr. Bakewell was called to the Bar at Lincoln's Inn in 1886.

Mr. A. W. BAIRSTOW, K.C., has been appointed to be Recorder of Scarborough in place of Mr. H. T. Waddy, who has been appointed a Metropolitan Police Magistrate. Mr. Arthur William Bairstow, who was born in 1855 and was educated at Trinity Hall, Cambridge, was called to the Bar at the Inner Temple in 1878, and joined the North-Eastern Circuit. He took silk in 1908. In 1915 he was appointed Solicitor-General of the County Palatine of Durham, and was made a Bencher of his Inn.

Changes in Partnerships.

Dissolutions.

JOHN ALEXANDER SIMPSON and ARTHUR NEALE LEE, solicitors (Simpson & Lee), Parade-chambers, South-parade, Nottingham. Jan. 1.

ROWLAND TICEHURST, GILBERT MCILQUHAM, ALGERNON HUGH WYATT, and GEORGE FARQUHARSON TICEHURST, solicitors (Ticehursts, McIlquham & Wyatt), Essex-place, Cheltenham, in the County of Gloucester. August 1. So far as regards the said Rowland Ticehurst; the said business will in future be carried on by the said Gilbert McIlquham, Algernon Hugh Wyatt, and George Farquharson Ticehurst under the style or firm of "Ticehurst, McIlquham & Wyatt." [*Gazette*, Aug. 3.

HENRY JOHN WELCH, GWEN HOWARD DAVIES, and MONTAGUE BURCHER CLAPPE, solicitors (Welch & Co.), Pinners Hall, Austin-friars, in the City of London. June 30. [*Gazette*, Aug. 10.

General.

Mr. Edward Kemp Taylor, the Registrar of the West London (Brompton) County Court of Middlesex died on Saturday, the 4th inst. He sat in court and disposed of his ordinary list of cases as late as Tuesday, 31st July.

In the House of Commons, on the 9th inst., Colonel Yate asked what steps had actually been taken to denounce the most-favoured-nation clauses of our commercial treaties with other countries. Mr. Bonar Law said the subject, which was one of considerable complexity, was under the consideration of the Government.—Colonel Yate: When will that consideration come to an end?—Mr. Bonar Law: We fully realize its importance, but it is not a question that can be settled offhand. The Foreign Office is now in consultation with the law officers in regard to it.

The Peruvian Charge d'Affaires, says the *Times* of the 15th inst., has received from his Government the following telegram in reference to the sinking of the Peruvian ship *Lorton* by a German submarine:—The German Government having decided to submit *The Lorton* case to a Prize Court, we have instructed the Peruvian Minister at Berlin to inform them that according to the Declaration of London, cited by Germany, the sinking of *The Lorton* is absolutely unjustified, considering the ship's nationality, the sort of goods it carried and their destination, the place where the ship was sunk, the impossibility for the ship to know of the decree concerning the prohibited area—a decree which has not been accepted by Peru—and the principles regarding maritime warfare and protecting neutral ships. The Peruvian Minister at Berlin has also been instructed to declare that Peru does not accept and will not accept the decision to submit this case to the German Prize Court, and insists on claiming fair reparation and due compensation.

Mr. Thomas Henry Carson, K.C., aged seventy-three, of Lincoln's Inn and of Vicarage-gardens, Kensington, W., son of the Rev. Joseph Carson, Vice-Provost of Trinity College, Dublin, left estate of gross value of £35,041.

At North London Police Court on Saturday, the 11th inst., says the *Times*, Mr. Hedderwick dealt with the three defendants John Wilmott, sixty-four, dealer, George Healey, forty-five, artificial limb maker, and Lewis Monkton, twenty-two, trunk maker, who are alleged to have participated in the riot at the Brotherhood Church, Southgate-

road, Hackney, on 28th July, by committing them to the sessions for trial. It was stated that the damage to two rooms in the church amounted to £500. Sub-divisional Inspector Perrott said that the police were powerless to prevent the riot because the church was unexpectedly assailed from both sides, the force of police being hemmed in and outflanked. A constable said he was in the building in plain clothes. A ticket audience of about 300 assembled. The doors were burst open and the mob swarmed into the church. He saw all three defendants in the church, and he and other witnesses spoke to acts of damage on their part. The defendants, who pleaded not guilty and reserved their defences, were admitted to bail.

Mr. W. H. Dickinson, M.P., speaking at Hampstead Garden Suburb, on Saturday the 11th inst., says the *Times*, said that if the elaborate schemes which were now being discussed for reconstruction after the war were realized, they would see rising out of the flames that were devastating Europe a Phœnix—a new civilization with jewels of promise for the generations that are to follow. The most urgent and indispensable of these schemes was the reconstruction of internationalism. According to some people, it was anathema to speak of entering into relationship with any enemy nation after the war. It was really nothing of the kind. After the war the world would go on the same between the peoples, and once peace was declared, in nine cases out of ten, the people would settle things for themselves. He believed that the statesmen of the world had misjudged the temperament of the people they represented, because the great mass of the people were anxious to substitute justice for the sword in most matters where arbitrament of some kind was required.

At a large meeting of merchants, held on Wednesday, says the *Times*, at the London Chamber of Commerce, to consider the recent judgment in the case of *Hindhaugh* v. *Attorney-General*, a committee was appointed to examine all claims of persons affected by the Food Controller's Orders of 1st and 16th May last providing for the requisitioning of beans and peas, and to take such action as may seem necessary. It will be remembered that Messrs. Hindhaugh had bought Madagascar butter beans which were in course of transit at the time of the Orders and in respect of which they had rendered their sub-buyers an invoice. The Orders provided that all contracts for sale made by consignees and persons claiming under them should be cancelled, and in his judgment, delivered on 30th July, Mr. Justice Rowlatt held that Messrs. Hindhaugh were not at the time, within the meaning of the Requisition Order, persons owning or having power to sell or dispose of the beans in question. The Judge was careful to confine his decision to the interests affected by the particular action, but it was stated at the time that a large number of traders were affected in a somewhat similar way by the requisitioning orders.

In the House of Commons Sir J. Harmood-Banner has asked the Chancellor of the Exchequer whether he is aware that income tax has been claimed by the authorities from captains in respect of awards made to them for meritorious services in beating off or escaping from enemy submarines; and, seeing that the action of the authorities in treating men who have rendered signal services to the country in this manner is not calculated to assist in the common effort to overcome the submarine menace, whether he will reconsider the charge for income tax in respect of such award. Mr. Bonar Law replies as follows:—All additional payments made by an employer to his employee in connexion with his employment are chargeable to income tax, whatever the nature of the employment or the character of the particular services which prompted the payments. I would remind my hon. friend that under the recent Finance Act the specially reduced rates of income tax applicable to the service pay of soldiers and sailors have been extended to the members of the mercantile marine.

Winding-up Notices.

JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

London Gazette.—FRIDAY, Aug. 10.

EUROPEAN CANADIAN MORTGAGE CO. (EUROPEESCH-CANADEESCHE HYPOTHEEKBANK) LTD.—Creditors are required, on or before Dec 15, to send their names and addresses, and the particulars of their debts or claims, to Geoffrey Bostock, 21, Ironmonger la, liquidator.

LITTLE SOUTHERN SHIPPING CO, LTD.—Creditors are required, on or before Sept 25, to send their names and addresses, and the particulars of their debts or claims, to Richard Henry Millar, 32, Maddox st, liquidator.

WORTHING WEST END BRICK CO, LTD.—Creditors are required, on or before Sept 29, to send in their names and addresses, and the particulars of their debts or claims, to James Fairbairn, 6, Broad Street pl, liquidator.

JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

London Gazette.—TUESDAY, Aug 14.

CLEVEDON STEAM FISHING CO, LTD. (IN VOLUNTARY LIQUIDATION).—Creditors are required, on or before Sept 12, to send in their names and addresses, and particulars of their debts or claims, to Walter Morley, 1, Preston st, Fleetwood, liquidator.

CELTIC GLEN CO, LTD.—Creditors are required, on or before Oct 1, to send in their names and addresses, and full particulars of their debts or claims, to Robert Hughes-Jones, 18, Water st, Liverpool, liquidator.

RALGALLAT, LTD. (IN LIQUIDATION).—Creditors are required, on or before Aug 31, to send their names and addresses, and statements of debts or claims, to E R. D. James, 2, Broad Street pl, liquidator.

SANCO GAS MANTLE CO, LTD. (IN VOLUNTARY LIQUIDATION).—Creditors are required, on or before Sept 11, to send in their names and addresses, and particulars of their debts or claims, to Mr. H. H. Secombe 84/86, Chancery la, liquidator.

Resolutions for Winding-up Voluntarily.

London Gazette.—FRIDAY, Aug. 10.

Varley & Co, Ltd.
European-Canadian Mortgage Company (Europeesch-Canadeesche Hypotheekbank) Ltd.
E. W. Stanley (Raunds) Ltd.
Unity Manufacturing Co, Ltd.
Colonial Construction Syndicate Ltd.
Finch & Wheeler Ltd.
Trinidad Silver-Stream Oilfields Ltd.

London Gazette.—TUESDAY, Aug 14.

Bedford & County Laundry, Ltd.
Williams & Co (Ship Supply Drug Stores), Ltd.
Redwyn, Ltd.
Manchester Agencies, Ltd.
Insurance & Commercial Syndicate, Ltd.
Ralgallat, Ltd.
Patrick Keenan, Ltd.
Redlands, Ltd.
Sanco Gas Mantle Co, Ltd.
North Preanger Tea Co, Ltd.
Clevedon Steam Fishing Co, Ltd.
Celtic Glen Co, Ltd.

Creditors' Notices.

Under 22 & 23 Vict. cap. 35.

LAST DAY OF CLAIM.

London Gazette.—FRIDAY, Aug. 3.

ABRAHAMS, REUBEN, Old Montague st Aug 31 Osborn & Osborn, London Wall

BARNETT, ALBERT, Kingston on Thames Sept 7 Carter & Co, Kingston on Thames

BARTON, GEORGE, Lymington, Hants Aug 31 Moore & Co, Lymington

BEVAN, SUSAN HUGHES, Merthyr Tydfil Sept 2 Jones, Workington

BRASSINGTON, JOSEPH, Wincle, Chester Sept 1 Challinors & Shaw, Leek, Staffs

BROOK, ELIZA, Brighton Aug 30 Egar & Co, Brighton

BROOKER, ARTHUR, Liverpool, Electrical Engineer Sept 15 Hilditch, Manchester

CATTERMOLE, CATHERINE, Bangor Sept 7 Williams, Bangor

CHADWICK, MARY, Twerton, nr Bath Aug 31 Heath & Eckersall, Cheltenham

COX, GEORGE, Gloucester Aug 30 Lane, Gloucester

COOKSON, EMMA, Kelsall, Chester Sept 6 Hughes, Chester

CUBITT, ARCHIBALD CYRIL, Norwich Sept 3 Stratford, Norwich

DREW, RICHARD, Fairlawn mans, New Cross Sept 5 Pearce & Nicholls, Clement's Inn

DRISCOLL, JEREMIAH JOSEPH, Worthing Sept 3 Bowles, Worthing

EADIE, WILLIAM, Dennistoun, Glasgow Aug 14 Hopgood & Dowsons, Spring gdns

EDWARDS, AMOS, Godreman, Aberaman, Aberdare, Haulier Sept 1 Thomas, Aberdare

ELLIS, Lieut DOUGLAS WILMSHURST, Wallasey, Cheshire Sept 4 Shakespeare & Co Liverpool

FRENCH, WILLIAM, Portsmouth Aug 28 Hollings, Portsmouth

FRERE, Rev EDWARD TUDOR, Wortham, Suffolk Sept 8 Baker & Savigny, Marylebone rd

GEAREY, FRANK, Verulam bldgs, Gray's Inn Sept 8 Greig & Co, Verulam bldgs, Gray's Inn

GRAHAM, CONSTANCE FRANCES, Colchester Sept 14 Beaumont & Son, Coggeshall

GRAY, EVELINE, Yelverton, Devon Sept 1 Maddison & Co, Old Jewry chmbrs

GRIFFITHS, VINCENT, Twickenham Sept 6 Wigan & Co, Norfolk House, Victoria Embankment

HAMILTON, GEORGE, St John's rd, Islington, Commercial Clerk Oct 31 Clarke & Co, Duncan st, Islington

HAMPTON, REBECCA, Great Bland st, Southwark Aug 31 Rubinstein & Co, Raymond bldgs

HAWKINS, JOHN, Grantham Sept 12 Thompson & Sons, Grantham

HERNE, CATHERINE ANN, Green lanes, Stoke Newington Sept 14 James & James, Ely pl

HUTCHINSON, EDWARD, Heaton, Newcastle upon Tyne Sept 3 Clayton & Gibson, Newcastle upon Tyne

JAQUES, JOHN, New Burlington st Sept 17 Roberts & Co, Margaret st

JORDAN, EMMA, Stourbridge Sept 4 Wyndham & Co, Stourbridge

JOSHUA, HERBERT, Pontypool rd, Pontypool, Brewer Oct 10 Bythway & Son, Pontypool

KEDDIE, MARY, Maldon, Essex Aug 30 Crick & Freeman, Maldon

LANDSBERGER, ADA, Croydon Sept 3 Stuttaford, St Helen's pl

LAWRENCE, MARY, St Mary's rd, Canonbury Sept 1 Oliver & Nutt, Coleman st

MACFARLANE, HARRIET MARIA, Gerrard st, Soho Sept 12 Allen & Son, Carlisle st, Soho sq

MACK, FERDINAND LEUCHS, Billiter sq bldgs Sept 3 Oppenheimer, Queen Victoria st

MARTIN, ANDREW, North Walsham, Norfolk Sept 3 Goodchild, Norwich

MARTIN, ARTHUR DERISLEY, Jhelum, India Sept 15 Andrew & Co, Great James st, Bedford row

MAYOR, JAMES, Blackpool Aug 31 Crowther, Ashton under Lyne

MEREDITH, MARGARET, Clovelly rd, Hornsey Sept 1 Matthews & Co, Finsbury sq

PARK, Lieut-Cr WILLIAM, D S O, H M Ship "Ark Royal" Aug 7 Stewart & Co, Inverness

PERRY, JANE ELIZABETH, Sutton, Surrey Sept 3 Tilling & Knight, Bishopsgate

PILE, MARIA JANE, West Dean, Wilts Sept 8 Andrews & Co, Dorchester

PRESTON, HENRY, Highfield, Lymington, Southampton, Builder Aug 31 Moore & Co Lymington

PROCTER, JOHN, Richmond, York, Accountant Aug 31 W B & C Hunton, Richmond Yorks

REID, JOHN WILLIAM, Leamington Spa, Warwick Sept 4 Large & Major, Leamington

REYNOLDS, JOHN, Preston Aug 30 Oakey, Preston

SHACKLETON, JAMES SUTCLIFFE, Mytholmroyd, Yorks Aug 31 Jellicorse & Co, Manchester

SHAW, FRANCES EMMELINE, Much Hadham, Herts Sept 10 Collyer-Bristow & Co, Bedford row

STAINTON, SARAH SOPHIA, Godstone, Surrey Sept 1 Walker & Co, Spilsby

STRETTON, SIDNEY, Hammerwich, Staffs, Engineer Sept 15 Briggs, Derby

TASKER, THOMAS, Retford Sept 29 Craik, Batley

TAYLOR, CAROLINE ELIZABETH, Newnham, Glos Sept 4 Haines & Sumner, Newnham

THACKER, JOHN THOMAS, Englefield rd, Islington Sept 3 Tilling & Knight, Bishopsgate

THOMPSON, FRANCES, St Aubyn's rd, Upper Norwood Sept 10 Wakeford & Co, Bloomsbury sq